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In the Supreme Court of the United States

October Term, 1970

No. 1170

ADAM FARKAS,
PETITIONER,

v.

TEXAS INSTRUMENTS, INC.,
RESPONDENT.

PETITION FOR A WRIT OF CERTIORARI TO THE UNITED STATES COURT OF APPEALS FOR THE FIRST CIRCUIT

ADAM FARKAS
Pro Se
82 State Street
Bristol, Rhode Island

Statler Press, Inc., Boston, Mass. — LI 2-7272

TABLE OF CONTENTS

	Page
Opinions Below	1
Jurisdiction	2
Constitutional Provisions and Statutes Invoked	2
Questions Presented	3
Statement of the Case	4
Proceedings in the U.S. District Court of Massachusetts	8
Proceedings in the U.S. Court of Appeals for the First Circuit	11
Conclusion	21
Appendix A	22
Appendix B	23
Appendix C	29
Appendix D	30
Appendix E	35
Appendix F	38
Appendix G	39
Appendix H	41

TABLE OF CITATIONS

Cases

Forbes v. *Texas Instruments Inc.*, 375 F.2d 629	7
Seymour v. *Parke, Davis, Inc.*, 423 F.2d 584	11, 12

Statutes & Constitutional Provisions

28 U.S.C. 1254	2
1331	3
1391(c)	3, 8
42 U.S.C. 1983	3, 7
1985	3, 7
Massachusetts General Laws, c. 223, sec. 38	3, 11
United States Constitution, Fourteenth Amendment	2

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Opinions Below

On December 31, 1968 the U.S. District Court of Massachusetts dismissed this case as: "HAVING NO REGARD WHATSOEVER TO THE GRATUITOUS UNPROVED CHARGES ON ANY PAPER FILED BY THE PLAINTIFF, etc." (see Appendix A)

On January 2, 1969 the U.S. District Court of Massachusetts vacated its Judgment shown in Appendix 'A'. No opinion given.

On December 31, 1969 the U.S. District Court of Massa-

chusetts dismissed all complaints against Texas Instruments Inc., by ruling that it does not have the power to summon the defendant Texas Instruments, Inc., into the Court. (see Appendix B)

On January 20, 1970 the U.S. District Court of Massachusetts dismissed the case against the defendant Ling-Temco-Vought, Inc., by refusing permission to the Plaintiff to file any complaint against the Ling-Temco-Vought Corporation. (see Appendix 'C')

On July 10, 1970 the U.S. Court of Appeals for the First Circuit affirmed the District Court's Judgment in favor of the defendant, Texas Instruments, Inc. on the basis that the Texas Instruments, Inc., a Delaware Corporation was not doing any business in Massachusetts. (Appendix 'D')

However, the U.S. Court of Appeals for the First Circuit returned the case against the defendant Ling-Temco-Vought to the District Court by saying that a complaint should be permitted against the Ling-Temco-Vought Corporation. The defendant, Ling-Temco-Vought, Inc., openly told to the lower Court that it does exist and it does business in the State of Massachusetts. (Appendix 'D')

On July 27, 1970 the U.S. Court of Appeals denied Plaintiff's request for a Rehearing. No opinion given.

On October 16, 1970 the United States Supreme Court granted extension of time until December 28, 1970 for filing this Petition.

Jurisdiction

Jurisdiction of the United States Supreme Court is invoked pursuant to Title 28 U.S.C. Sec. 1254.

Constitutional Provisions and Statutes Invoked

The 14th Amendment of the Constitution of the United States of America, also Federal Statutes in Title 28, Sec.

1331 and Title 42 U.S.C. 1983 and 1985 and Section 1391(c) of Title 28 in the United States Code and Massachusetts General Laws Par. 223 Sec. 38.

Questions Presented

1. The complaint in this case alleges that the defendant Texas Instruments, Inc. blacklisted me — the petitioner here — and in concerted actions with State Officers of the Dallas Police Department enforced a Police Harassment program to prevent me from obtaining work for a living.

Since the case stands summarily disposed by the lower Courts I respectfully ask the Supreme Court of the United States whether or not my damages arising from the aforesaid violations of the U.S. Constitution should be forever dismissed just because of so called "difficulties" with service of process upon the defendant Texas Instruments Inc. under Massachusetts state law?

2. The Federal Law on Venue [Title 28, U.S.C. Sec. 1391(c)] requires that a "Corporation may be sued in any judicial district in which it is doing business". Also under Massachusetts General Laws, paragraph 223 Sec. 38 A Foreign Corporation (such as Texas Instruments, a Delaware Corporation) may be sued in Massachusetts if it has much as one agent in the State on a temporary or permanent basis with or without a usual place of business.

Therefore, I respectfully ask the Supreme Court of the United States whether or not the nine (9) salesmen and six (6) secretaries permanently employed by the defendant Texas Instruments, Inc. (Delaware Corporation) in Waltham, Massachusetts constitute enough "doing of business" to allow a lawsuit against Texas Instruments in Massachusetts?

Statement of the Case

About a year after I —Adam Farkas, the Petitioner here — became a U.S. Citizen I accepted an employment offer for work in electronics at the Texas Instruments Corporation. During my first 7 months of employment I received two merit pay raises for my professional achievements and subsequently I was transferred to another department in the Corporation.

In the new department a squeeze play was going on among the existing personnel and my supervisor advised me that he would not tolerate anyone with undesirable "Old Country" behavior such as mine. The Supervisor also introduced my national origin into several unfounded vile personal accusations as he threatened to throw me out of work.

I wrote about the treatment to the Vice-President of the Company, who is also the manager of the Division where the incident occurred. The Company's Vice-President simply ignored my letter.

Then, I submitted a written report on the matter to the President of Texas Instruments, to whom I expressed appreciation for my naturalized U.S. citizenship and its inherent values which are derived from the Constitution of the United States. In his written reply the President of Texas Instruments Incorporated advised me that:

1) he cannot influence his supervisors in the treatment of persons of foreign background,
2) the Constitution of the United States does not apply to persons in my circumstances.

Four days after the aforesaid written exchanges I was thrown out of work and to top it off I was fired with some of the most vicious statements ever recorded on a former

employee of Texas Instruments, Inc. Among other things the personnel records show that I am a "troublemaker" and "completely unproductive" person. This information was also widely circulated among other employers and at the State Employment Commission where I sought help in order to secure work for a living.

In addition to the foregoing, the officers of Texas Instruments, Inc., got together with the Police Chief of Dallas, Texas and concocted a set of ugly and unfounded charges which then became the basis for placing me and my family under extended harassment by the officers of the Dallas Police Department. For reasons which are utterly vindictive, the Police listed me as a dangerous person whose presence in town was a threat to the safety of prominent citizens including the visiting Mrs. Lady Bird Johnson, wife of the President of the United States.

The Police harassment against me was set up not only for my personal intimidation but also in order to prevent me from providing a livelihood for my family. Needless to say that the Police harassment was very effective in preventing me from obtaining work. Few employers if any would put up with persons having such Police records and subject to continuous Police harassment.

Thus, I became permanently unemployed which condition resulted in the loss of my home, car and other personal belongings. The worst effect, however, was upon my family who had to endure the consequences of such treatment. My wife developed a nervous disorder which handicapped her in obtaining work for herself and my small child of three years of age could not work to provide for her own survival. After about 18 months of unemployment we became dependent upon assistance from overseas in order to survive in the United States of America.

Under these circumstances I sought the protection of the law, hoping that specific guarantees given in the Federal

Laws and the Constitution of the United States can help to clear up the unfounded charges and Police harassment against me. Unfortunately, I was not able to secure the services of any attorney for a very long time. For most practicing lawyers I was a poor prospect for a client. I do not have the required $50.00 per hour fee. So, several lawyers told me that in the United States justice is "impractical" for persons who have no money to pay for it.

Since the questions of law in my case are addressed to the basic concept of the American principle I also sought the help of those organizations whose interest in my problem would coincide with their advertized efforts toward the furtherance of great human causes.

The public defenders of the American Civil Liberties Union simply refused to help me. By this time the late Martin Luther King, Jr., filled up the jails with black Americans in search for some justice. So, the lawyers of the American Civil Liberties Union did not indicate any confidence in the project of securing any human right in America by rational methods.

On the other side of the picture, the organizations which advocate the feasibility of maintaining traditional American values admitted the difficulty with the cases where financially poor persons in the United States seek redress against wealthy individuals or Corporations. Thus, in spite of every devotion to the traditional American ways and values that lawyers of such organization openly admitted defeat of the traditional process. I do not need any lawyer, Court or Government to achieve redress against a person of my own size. The real value of the legal process is in the cases where redress is achieved between unequal parties engaged in the controversy.

In theory — at least— I have two methods of redress. As a government contractor, Texas Instruments, Inc., blacklisted me because I am a naturalized-immigrant citizen

of the United States. Therefore one method of redress in my case would be under *the non-discrimination provisions* of various Executive Orders signed by the President of the United States. Unfortunately such redress is only a figment of the mind. This is correctly pointed out in a decision rendered by the Honorable U.S. Chief Judge Tuttle of the 5th Circuit Court of Appeals, who wrote in 967.

> "The history of the executive orders on the subject from 1951 to the present all point to the conclusion that the enforcement of the nondiscrimination provisions in Government contracts has been entrusted to one or more of the Government agencies with the assistance of a committee appointed by the President .... (Chief U.S. Judge Tuttle continues) As far as we have been able to ascertain, the Department of Justice has not instituted any proceeding in any court against noncomplying contractor to enforce the nondiscrimination provisions of a Government contract". *Farkas* v. *Texas Instruments, Inc.*, 375 F.2d 629, 632 ftn. 2.

One should reasonably conclude that where the government agencies entrusted with the enforcement of a law simply do not bring action against the violators such law becomes a useless item. Therefore I chose to seek redress under the Laws and Constitution of the United States.

I wrote the complaint, and filed it in the U.S. District Court of Massachusetts. My original Complaint in the U.S. District Court alleges offenses in violation of the 14th Amendment of the Constitution of the United States and offenses in violation of Federal Statutes in Title 42 Sec. 1985 and 1983 of the United States Code.

I brought this suit in Massachusetts for the following three reasons:

1. Under the Federal Statute in Title 28 Sec. 1391(c) a corporation may be sued in any judicial district in which it is doing business.
2. It so happens that the defendant Texas Instruments, Inc. (Delaware Corporation) has nine (9) permanent salesmen and six (6) permanent secretaries employed year around in a large sales Headquarters located in Waltham Massachusetts.
3. Also the Defendant Texas Instruments, Inc., (Delaware Corporation has vast holding of property and manufacturing facilities of about ONE BILLION DOLLAR business volume located in Attleboro, Massachusetts.

My original complaint in the U.S. District Court of Massachusetts alleges the aforesaid blacklisting and conspiracy of Texas Instruments officers with State Police Officers in order to prevent me from obtaining work for a living.

Proceedings in the U.S. District Court of Massachusetts

The following are matters of record in the proceedings conducted by U.S. District Judge Frank Murray:

1. First Judge Murray struck my original complaint and advised me about the right to submit an Amended Complaint to his Court.

2. On two different occasions I submitted Amended Complaints to the U.S. District Court. The Court denied me permission to file any complaint on two occasions. When I requested the reason for the denial my request was simply ignored by the Court.

3. During the subsequent two years I submitted several requests and Motions to the District Court. With only one exception all of my motions and requests have been denied by U.S. District Judge Frank Murray. On one occasion Judge Murray struck my motion wherein I requested the Court to appoint a lawyer for me under the applicable Federal Law.

4. On December 31, 1968 all of my complaints were dismissed as Judge Murray wrote the decision stating that "The Court will have no consideration whatsoever for the unproved and gratuitous charges appearing on any paper which Plaintiff submitted to the Court." (see Appendix A)

So, the merits of my complaints have been adjudicated without having any complaint on file and before the controversy was admitted for jurisdiction under the law. This was, of course, one of those free-wheeling and heavy handed abuses of the judiciary power. (The U.S. District Court adjudicated the merits of my claim before taking jurisdiction over the controversy.)

5. On January 2nd 1970 the aforesaid "Judgment" was vacated.

6. Finally in January of 1970 I found an attorney to represent me and he was permitted to file a complaint in my behalf. The sum and substance of the complaints submitted by my attorney was not any different from the complaints which I submitted to the District Court on three different occasions.

7. It turned out however that the actual offenses

against the United States Constitution, (violation for enforcing a State Police harassment program etc.) were of no importance throughout the proceedings. Judge Murray raised "major legal questions" on the service of process upon the defendant Texas Instruments, Inc., under Massachusetts State law. For one *whole year* "grave doubts" on the subject of service of process took over the proceedings in the U.S. District Court and it did not matter as to how many times the U.S. Constitution was actually violated by the State Police acting in concert with Corporate officers of the defendant Texas Instruments, Inc.

8. Finally on December 31, 1969 the U.S. District Court handed down the decision dismissing all complaints against the defendant Texas Instruments. In the District Court's Judgment are word for word quotations from the sworn statements of the chief Corporate lawyer of the defendant, Texas Instruments, Inc., who swore, of course, that his Company does no business in Massachusetts.

It is interesting to note that while Bryan F. Smith, the Chief Corporate lawyer of the defendant, Texas Instruments, Inc., personally swore in the U.S. District Court that his Company does not do business in Massachusetts the Commerce Department in the State of Massachusetts published a nation wide advertising campaign showing that the Texas Instruments (Delaware Corporation) came from Texas to Massachusetts and does excellent business in Attleboro, Mass. Appendix H. Thus, encouraging other businesses around the nation to do the same as Texas Instruments, Inc., is doing. The contradiction in the published

evidence did not bother Judge Murray in the least. (See Appendix H)

For the epitome of all absurdity, U.S. District Judge Frank Murray also decided that the nine salesmen and six secretaries of Texas Instruments (Delaware Corporation) in Massachusetts do not take any orders. (see Appendix B) Would Texas Instruments, Inc., (Delaware Corporation) spend over ONE HALF MILLION DOLLARS A YEAR to keep nine salesmen and six Secretaries in Massachusetts if such salesmen were not taking any orders for the the manufacturer whose product they are selling? So, U.S. District Judge Frank Murray took three years (give or take a couple of months) to determine that his Court has "no power" to serve papers on the defendant, Texas Instruments, Inc. ("Lack of Service of Process")

Proceedings in the U.S. Court of Appeals For the First Circuit

I appealed to the U.S. Court of Appeals for the First Circuit for a review of the District Court's Judgment. Upon submission of my brief to the Court of Appeals I received instructions requesting that I should present written arguments on my case in the light of a recent decision which the Court of Appeals rendered in the case of *Seymour* v. *Parke, Davis, Inc.* a copy of which was enclosed with the instructions which were mailed to me. In *Seymour* v. *Parke, Davis, Inc.*, the U.S. Court of Appeals decided that even though Massachusetts General Law 223 Sec. 38 does permit "service of process" upon a foreign corporation which "is engaged in solliciting business in Massachusetts" "fairness will not permit Massachusetts to Assume jurisdiction".

In other words the U.S. Court of Appeals decided that the law requiring 'service of papers' on the defendant

should be set aside for the sake of "fairness". (See the final sentence in the decision rendered in *Seymour v. Parke, Davis, Inc.*, and the applicable Massachusetts Law 223 Sec. 38 attached here)

On the other hand in the same decision the U.S. Court of Appeals also states that if the federal Court is located in a district where a community exists "into whose business life the defendant significantly entered" on a substantial, continuous basis then a lawsuit against the defendant is permissible in such District Court. Thus, all I had to show was that the Texas Instruments, Inc. (Delaware Corporation) did in fact significantly enter into the business life of a Massachusetts Community, from May 1967 to December 31, 1969.* It so happens that *this is the case in Attleboro, Massachusetts.* Accordingly I submitted to the Court of Appeals about $15,000.00 worth of corporate advertisements which appeared in the Attleboro, Mass. daily newspaper and show that in the year 1969 Texas Instruments Inc., is the owner and manager of the largest industry in Attleboro, Mass. Officially projected business of several hundred million dollars. (Appendix H.) Also according to Attleboro's daily newspaper the defendant, Texas Instruments Inc. is managing everything in town from little league baseball, to religious worshipping and community recreation facilities.

Moreover, the Commerce Department of Massachusetts was proudly advertising in the Newsweek Magazine that the Texas Instruments, Inc. (Delaware Corporation) came to Massachusetts and it is successfully doing business in the State. (Appendix H)

Since there was no other Texas Instruments Inc., operating in Attleboro Massachusetts from 1967 to 1970 there could be no doubt that all of these public anouncements and advertisements refer to the activities of the Delaware Cor-

* The time interval of the lower court proceedings presented on appeal.

poration which came into Massachusetts just as the Massachusetts Department of Commerce describes it. (Newsweek magazine, Dec. 18, 1967).

Confronted with such publications the Honorable chief U.S. Judge Aldrich of the Court of Appeals held a Hearing and demanded that I submit to him registration papers from the Massachusetts Secretary of State so as to show that Texas Instruments Inc., was properly registered to do business in Attleboro, Massachusetts. Upon Searching the State records it turned out that there was no registration for Texas Instruments, Inc. in Attleboro, Mass. and the only registration under such name was found in Boston Massachusetts where a dummy Corporation was registered to do business with *total capital assets of Three Dollars.* Clearly this was not the Texas Instruments Inc., which is employing approximately 5000 workers at a One million square feet manufacturing facility in Attleboro, Mass. (It is doubtful that a business with only THREE DOLLARS Total Assets could expect one Billion Dollars of business. (See page 15 *infra*)

When this evidence was submitted to the Court of Appeals the Honorable U.S. Chief Judge Aldrich threw out the papers and informed me that he will no longer accept any paper which I may offer in evidence, to the Court. Moreover, Chief Judge Aldrich also instructed the defendant's attorney to file some papers in Court. So, the defendant filed a Certificate from the Massachusetts Secretary of State attesting to the so called "fact" that a Corporation just changed and as of January 1970 decided to call itself Texas Instruments, Inc., its name in Attleboro, Mass. (page 20, *infra*)

THIS CERTIFICATE BECAME THE PROOF OF THE PUDDING AND THE BASIS FOR THE JUDGMENT.

So, for the purposes of Judgment the U.S. Court of Ap-

peals conveniently forgot to mention the dates of the events attested by the "certificate".

Therefore, I attach here the following two pieces of evidence thrown out by U.S. Chief Judge Aldrich:

1. The registration of the (dummy) Texas Instruments, Inc., - Massachusetts Corporation which has a grand total of $3 (Three Dollars) assets declared in the fiscal year 1968.

2. The published business of the Texas Instruments, Inc., - Delaware Corporation which operates in Attleboro Massachusetts and whose employees donated over $65,000 (Sixty Five Thousand Dollars) to the United Fund during the fiscal year 1968.

The U.S. Court of Appeals is fully aware that the Texas Instruments Massachusetts Corporation could not donate $65,900.00 out of its employee payroll when the Corporation has only $3 of assets.

The Commonwealth of Massachusetts

JOHN F. X. DAVOREN

Secretary of the Commonwealth

STATE HOUSE BOSTON, MASS.

MASSACHUSETTS CORPORATION FILING FEE $25

We, F. Douglas Cochrane, President, Richard W. Southgate, Treasurer and F. Douglas Cochrane, Richard W. Southgate and John A. Pike

being a majority of the directors of the corporation named below, in compliance with General Laws, Chapter 156B, hereby certify that:

1. The name of the corporation is Texas Instruments Inc.

   Kind of business Manufacturing Federal Identification No. _____

2. The location of its principal office in Massachusetts is 225 (NUMBER) Franklin (STREET) Street, Boston (CITY OR TOWN)

   and outside Massachusetts None (NUMBER) (STREET) (CITY OR TOWN) (STATE)

3. Date of annual meeting None was held 4. End of Fiscal Year 12/31/68

5. The capital stock of each class authorized and issued on the date fixed in the by-laws of the corporation for its annual meeting was as follows:

CLASS OF STOCK	PAR VALUE PER SHARE If no par, so state	TOTAL AUTHORIZED By Articles of Organization or Amendments		TOTAL ISSUED AND OUTSTANDING Including any issued stock held as Treasury Stock	
		Number of Shares	Total Par Value	Number of Shares	Amount Then Paid Thereon
PREFERRED . .		0	$		$
COMMON . . .	$1	150,000	$150,000	3	$3.00

The statement of the assets and liabilities of the corporation as of said date is as follows:

ASSETS			LIABILITIES		
Cash	$ 3	00	Accounts payable	$	
Accounts receivable, customers			Notes and acceptances payable		
Accounts receivable, others. .					
Notes receivable, customers. .					
Notes receivable, others . . .			Mortgages (Specify kind of property mortgaged)		
Merchandise					
Supplies					
			Bonds		
Securities (except those issued by this corporation)			Reserves (classify below): Note: Reserves for depreciation or reduction of assets, if not deducted from assets, shall be appropriately described to identify the assets to which they apply.		
Real Estate					
Machinery					
Motor Vehicles and Trailers . .					
Equipment and Tools. . . .					
Furniture and Fixtures . . .					
Prepaid insurance, interest, taxes, .					
Patent rights, trade-marks, copyrights			Capital stock with par value	3	00
Goodwill			Capital stock without par value		
Treasury stock			Number of shares without par value _____		
			Surplus		
Profit and loss (deficit) . . .					
Total	$ 3	00	Total	$ 3	00

APR 30'69 18,414

...rm of office of each expires, are as follows:—

OFFICE	NAME	DOMICILE City or Town, Number, Street	Expiration of Term of Office
President	F. Douglas Cochrane	Green Street Milton, Mass.	Until the next annual meeting and until their successors are elected and qualified
Treasurer	Richard W. Southgate	University Lane Manchester, Mass.	
Clerk	F. Douglas Cochrane	See above	
Directors	F. Douglas Cochrane	See above	
	Richard W. Southgate	See above	
	John A. Pike	Conant Road Lincoln, Mass.	

IN WITNESS WHEREOF AND UNDER THE PENALTIES OF PERJURY we hereunto sign our names

this 2nd day of March, 1969

INSERT DATE OF SIGNING

President, Treasurer, and majority of Directors sign in space below. Write first name in full.

F. Douglas Cochrane, President. Richard W. Southgate, Treasurer

MAJORITY OF DIRECTORS

F. Douglas Cochrane

Richard W. Southgate

GENERAL LAWS, CHAPTER 156B

SECTION 111. Such report of a corporation which has issued an outstanding capital stock of two hundred thousand dollars or more, for this purpose counting shares without par value as of a par value of one hundred dollars each, shall be accompanied by a written statement on oath by an auditor which shall be attached to and form a part of such report.

WE, the officers who signed the foregoing report of condition of _____

hereby certify that _____ who executes the following statement, was duly selected as auditor of said corporation as provided in General Laws Chapter 156B, Section 111.

_____, 19____ _____, President

_____, Treasurer

AUDITOR'S STATEMENT

I have examined the statement of assets and liabilities included in this report in accordance with generally accepted auditing standards and in my opinion said statement of assets and liabilities presents fairly the financial position of the corporation as of the date thereof in conformity with generally accepted accounting principles.

...0, Still ...se Doors

...istry is more than ... feet and one-third ... she covers it on foot ... es a week—after she ... She lives in another ... territory and walks ...

... learned to drive a ... Mrs. Keele. ... and was a Baptist ... did part-time jobs ... loved. They reared ... and their offspring ... the fourth genera- ...

... straight at age 90, ... lives alone in a five- ... asking fee and re- ... help in keeping it up. ... love are for Mrs. ... Sundays are ...

WANTED
ENGINEER
... Metals
... Journals
...
... or send ... to
... ALLOYS, INC.
... Industrial Park
... Mass.

... Progressive and ... benefits includ- ...
... INC.
...ON

Heading the TI United Fund drive are, left to right: Eric Nasien, Norman Jourdenais, John Harkness, Edward "Lou" Schulze, chairman, Russell Fowler, Robert Corson and Bradford Snow.

TI Breaks UF Record With $65,900

Employees of Texas Instruments Inc. in Attleboro broke their all-time United Fund Record, raising $54,700 achieving 174 per cent of its goal of $31,000. The total topped a previous high of $30,100 in 1966.

According to Edward L. Schulze, over-all chairman of the TI-UF Campaign, "the results reflect the concern of all 4,600 Tiers. Once again, more people than ever before have given of their time." Over 320 Tiers compared with 310 last year volunteered to do the campaign planning, soliciting, and the record keeping associated with a large drive.

This year's theme, "You are the Key," was the work of William Eliason, campaign publicity head, who is the merchandising manager of TI's Metallurgical Materials Division.

In addition to the employes contribution, TI donated $11,200, 28 per cent of the community bringing its total to $65,900, or drive.

Hebronville Woman Reports Sighting UFO

A Hebronville woman, who said she didn't believe what she saw until she took a drink of water to make certain she wasn't dreaming, declared to Attleboro police Saturday that she had seen a UFO — (unidentified flying object) early Friday morning hovering almost over her home.

being gold colored, or the object was. Believing it was a continuation of a bad dream she went to the kitchen and got a drink of water, emphasis on "water", she added. She went back and looked out again. There was the same object hovering over a willow tree in the Phillips St. back yard

Severe Flooding

Death Toll Tops 100 In Italy

ROME (AP) — Rescue teams battled mud and floods today to search for survivors of weekend floods and landslides that cut a path of death and destruction along the southern edge of the Italian Alps.

More than 100 dead were counted and officials feared the final toll may go much higher, exceeding the 113 who died in the floods in Florence and Venice two years ago today. That was the worst flood in modern Italian history.

The prefecture at Vercelli, at the apex of a tragic triangle formed by three overflowing where 64 persons were smothered in the rubble of their homes. The section is a wool producing region.

Dozens of factories, farm buildings, houses and cars were lost in the landslides which rain storm sent rumbling down north of Turin.

Venice had its fourth highest water in 40 years. The lagoon waters surged over the banks of the canals and sent inhabitants into their boats and boats.

The seas pounded both Italian coasts, doing damage all along the shores and tearing boats from their moorings

Vote Bliss ... Youthful ... Vote ... Spatcher ... Vote Spatcher ... Experience ... Vote B... Time ... Vote Bliss ... Insurance Brok... Spatcher ... Teacher ... North Attleboro R... Bliss ... Spatcher ... Attleboro Resident ... ... Former City Councilman ... Bliss ... Six Y... lator ... Bliss ... Ranking Republican on... Local Affairs Committee ... Spatcher ... K... of Powerful House Ways & Means Committ... ... 100% 6-Year Attendance Record ... S... 96% 14 Years Attendance Record ... ville ... Vote Bliss & Spatcher ... Years' Experie... Spatchc... Bliss A L... cated ... Team ... ... Alwa... 2 Votes f... Attleboro... ... Key Le... Spatcher ... Knows His ... Such As Bli... Investigate ... Spatcher ... For All Local ... Attleboro's P... Bliss ... Vote ... Need a Prover... & Bliss ... The ... Funds ... For A... ...Swimming Pool ... Th... Secure County Funds for Enlarging 4th Dis... ... Vote Bliss & Spatcher ... 20 Years' Exp... Both on Key Committees ... Spatcher a T... Always Available to Voters ... Bliss a Busin... Vote for them Both ... Spatcher ... An Attl... dent ... Bliss ... A Proven Legislative Team ... Investigate Thompson Explosion ... Spatch... tleboro Public Health Service Career ...

RE-ELECT
Donald T. Bliss
AND
George I. Spatcher
YOUR STATE REPRESENTATIVES
Please Use Both of Your Votes
on TUES., NOV. 5, 196...

Heading the TI United Fund drive are, left to right: Eric Nissen, Norman Jourdenais, John Harkness, Edward "Lou" Schulze, chairman, Russell Fowler, Robert Corson and Bradford Snow.

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Venice had its fourth highest water in 40 years. The lagoon waters surged over the banks of the canals and sent inhabitants into their boats and boats.

The seas pounded both Italian coasts, doing damage all along the shores and tearing boats from their moorings.

Vote Bliss . . . Youthful . . . Vote . . . Spatcher . . . Maturity . . . Vote Spatcher . . . Experience . . . Vote Bliss . . . Full Time . . . Vote Bliss . . . Insurance Broker . . . Vote Spatcher . . . Teacher . . . North Attleboro Resident . . . Bliss . . . Spatcher . . . Attleboro Resident . . . Spatcher . . . Former City Councilman . . . Bliss . . . Six Years Legislator . . . Bliss . . . Ranking Republican on Legislative Local Affairs Committee . . . Spatcher . . . Key Member of Powerful House Ways & Means Committee . . . Bliss . . . 100% 6-Year Attendance Record . . . Spatcher . . . 96% 14 Years Attendance Record . . . Saved Pondville . . . Vote Bliss & Spat[illegible] . . . tcher . . . 20 Years' Experi[illegible] . . . mittees . . . Spatchc[illegible] . . . Teacher . . . Bliss A l[illegible] . . . er is Dedicated . . . Qualified Team . . . Alwa[illegible] . . . t . . . Bliss 2 Votes f[illegible] . . . Use Your Attleboro[illegible] . . . m for the . . . Key Le[illegible] . . . Fireman Spatcher . . . Vote Knows His . . . Spatcher Such As Bli[illegible] . . . ds Men Investigate . . . Helped Spatcher . . . . . 'liss & For All Local . . . Works Attleboro's P[illegible] . . . er in Bliss . . . Vote . . . Vote Need a Prover[illegible] . . . strict & Bliss . . . The . . . Spatcher Funds . . . For A[illegible] . . . Working on State . . . Swimming Pool . . . They Hope to Secure County Funds for Enlarging 4th District Court . . . Vote Bliss & Spatcher . . . 20 Years' Experience . . . Both on Key Committees . . . Spatcher a Teacher . . . Always Available to Voters . . . Bliss a Businessman . . . Vote for them Both . . . Spatcher . . . An Attleboro Resident . . . Bliss . . . A Proven Legislative Team . . . Helped Investigate Thompson Explosion . . . Spatcher . . . Attleboro Public Health Service Career . . . Vote Bliss

RE-ELECT
Donald T. Bliss
AND
George I. Spatcher
YOUR STATE REPRESENTATIVES
Please Use Both of Your Votes
on TUES., NOV. 5, 1968

Call 222-7590 or apply to:

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tory. We will train you. Call 222-2077 for confidential interview.

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Monday thru Friday 7 a.m. to 12 noon or 1 to 5 p.m.

All active and inactive Nurses in the Hospital's Service area
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RICE-WEBB AUDITORIUM
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Want a better job? We've made it easy for you.

EVENING INTERVIEWS

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Wednesday, Thursday, & Friday

Our Employment Office will be open till 9:00 P.M. Wednesday, Thursday and Friday of this week. As one of the most progressive employers in this area we are growing rapidly and need both men and women to join us in good paying positions. Check our benefits outlined below. How do your current benefits compare?

Company Paid Profit Sharing, Retirement, Vacation Benefits (3 weeks after 5 years), Educational Assistance, Good Working Conditions, Car Pool Assistance, 10% Premium for 2nd and 3rd Shifts, Excellent Opportunity for Overtime.

Openings currently exist for:

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No experience necessary. Immediate positions are available performing light electrical and mechanical assembly. The above positions are available in the following shifts:

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If you are looking for a position which will offer you every opportunity for growth and advancement we urge you to drop by our Employment Office and find out for yourself all the advantages of becoming a Tier. For your convenience our Employment Office is also open from 8:00 A.M. to 7:00 P.M. Monday through Friday and from 9:00 A.M. to 12:00 Noon Saturdays.

The Employment Office will be open Monday, November 11th, from 8 a.m. to 7 p.m.

TEXAS INSTRUMENTS
INCORPORATED
34 Forest Street Attleboro, Mass. 02703

Texas Instruments Terms Clad Metals . . .

Metalworking's $1 Billion Infant

TI's Philip J. Gomez

"And $1 billion covers only clad metal materials systems currently available or on our drawing boards. We know the surface has only been scratched."

REACH INTO YOUR pocket and dig out one of those "sandwich" dimes or quarters currently being minted. You're holding an example of a technology which has grown from specialty applications in jewelry and thermostat metals to a volume business with potential exceeding $1 billion annually: clad metals.

That evaluation comes from Texas Instruments Inc.'s Materials Div., Attleboro, Mass., a front runner among the handful of firms pioneering in this area.

"And $1 billion covers only clad metal materials systems currently available or on our drawing boards," claims Philip J. Gomez, TI vice president and Materials Div. general manager. "The total dollar potential of this market is almost impossible to pin down because we are constantly discovering new applications."

● **Benefits**—Mr. Gomez cites two distinct benefits of clad metals as basis for this rapid growth: improved product performance by combining optimum engineering properties; cost reduction either by conserving costly material (see table) or by simplifying manufacturing operations. TI calls this the application of the "materials system concept."

TI is pursuing application in the transportation, appliance, construction, communication, electric, electronic, military, and government markets. The table accompanying this article gives some idea of the basic combina-

CERTIFIED COPY

The Commonwealth of Massachusetts

Office of the Secretary

State House, Boston 02133

John F. X. Davoren
Secretary of the Commonwealth

June 29, 1970

To Whom it May Concern:

I hereby certify that the records of this office show that M & C Nuclear, Inc. was incorporated under the General Laws of this Commonwealth December 9, 1957 and I further certify that by articles of amendment filed here December 30, 1960 the name of said corporation was changed to Metals & Controls Inc. I also certify that the name of said corporation was changed to Texas Instruments Inc. by articles of amendment the effective date being January 1, 1970. (address given 34 Forest Street, Attleboro, Massachusetts)

I further certify that so far as appears of record here, said corporation still has a legal existence.

IN TESTIMONY of which, I have hereunto affixed the Great Seal of the Commonwealth on the date first above written.

John F. X. Davoren

Secretary of the Commonwealth.

Deputy Secretary.

20

CONCLUSION

Aside from the aforesaid irregular proceedures which helped defendant, Texas Instruments, Inc. circumvent the law in the federal courts of Massachusetts I respectfully request the U.S. Supreme Court to consider the following other offenses.

Among the other offenses my complaint alleges, State Police harassments, which were enforce against me in violation of the Constitution of the United States, the Supreme Law of the Land.

Should anyone — including Texas Instruments, Inc. — be permitted to avoid prosecution for the violation of the "Supreme Law of the Land" by having some lawyer argue around city ordinances or Massachusetts State laws?

At last, but not least, the aforesaid irregularities in the lower court proceedings should be of plenary importance to the entire judiciary system in order to warrant the review of this case by the Supreme Court of the United States.

Respectfully submitted,

ADAM FARKAS
Pro Se

APPENDIX A

UNITED STATES DISTRICT COURT
DISTRICT OF MASSACHUSETTS

ADAM FARKAS

v.

DALLAS MAYOR, ERIK JOHNSON
TEXAS INSTRUMENTS, INC.
LING-TEMCO-VOUGHT, INC.
JOE MORRIS LANDTROOP, USN.

Civil Action
No. 67-369-M

NOTICE

December 31, 1968

Please take notice that the following endorsement has been made on PLAINTIFF'S MOTION FOR EARLY FINAL JUDGMENT UNDER THE UNITED STATES CODE:

MURRAY, D.J. "Having no regard whatsoever to the gratuitous unproved charges appearing on this paper — or on any other paper filed by plaintiff — and leaving to the parties the question whether to move to strike or expunge, the motions of the defendants to dismiss are hereby granted."

By the Court,
(s) ALICE R. FITZGERALD
Deputy Clerk

APPENDIX B

UNITED STATES DISTRICT COURT
DISTRICT OF MASSACHUSETTS

ADAM FARKAS,
PLAINTIFF,
v.
TEXAS INSTRUMENTS, INC.
LING-TEMCO-VOUGHT, INC.,
DEFENDANTS.

Civil Action
No. 67-369-M

MEMORANDUM
December 31, 1969

MURRAY, D.J. Plaintiff, a resident of Rhode Island, brings this action against Texas Instruments, Inc. (Instruments), and Ling-Temco-Vought, Inc.,[1] both Delaware corporations alleged to be doing business in Massachusetts, in which he seeks damages. There are no allegations in the complaint of any particular jurisdictional basis for the action, and thus there is no compliance with Fed. R. Civ. P. 8(a) (1). The action was brought against Instruments in this district presumably as "the residence of such corporation for venue purposes". 28 U.S.C. 1391(c). Instruments has moved to quash the service of the summons issued in the case and served upon the Secretary of the Commonwealth (Secretary) pursuant to Fed. R. Civ. P. 4(d)(3). Instruments contends the Secretary was not an "agent authorized by appointment or by law to receive service of process" on its behalf as Rule 4(d)(3) requires. In its motion to dismiss Instruments raises substantially

[1] Ling-Temco-Vought, Inc. also has attacked the complaint in this case, and that attack under its motions will be heard and considered after the decisions on Instruments' motions herein.

the same issue, asserting that (a) Instruments has not appointed the Secretary to receive service of the process, (b) Instruments is not doing and has not done business within the Commonwealth at all material times herein, and (c) the causes of action alleged in the complaint did not arise in or out of business done in the Commonwealth." Instruments also moves to dismiss the action on the ground the complaint fails to state a claim upon which relief can be granted, but this additional ground will not be considered in view of the disposition of the motion on the jurisdictional ground. These motions were heard by the court pursuant to Fed. R. Civ. P. 12(d) on the statements of counsel together with the affidavits of plaintiff and of Bryan F. Smith, senior vice president and secretary of Instruments, and certificates of the Secretary of the Commonwealth. This memorandum contains the findings and rulings of the court.

Instruments was not registered under Mass. Gen. Laws, ch. 181, to do business in the Commonwealth when the process was served on the Secretary. It was last qualified on January 11, 1961 when it filed with the Secretary an affidavit of withdrawal of the right to do business in Massachusetts. It has never registered here since that date, and it has not appointed the Secretary under Mass. Gen. Laws, ch. 181, § 3 its agent to receive service of process against it. Thus service on the Secretary of the summons could not be effective under Rule 4(d)(7) to bring Instruments within the jurisdiction of this court unless plaintiff can show Instruments is doing business in Massachusetts within the meaning of Mass. Gen. Laws, ch. 181, § 3A, or other applicable provisions of law.

It is not clear from the complaint, but it was made clear during oral argument by counsel for plaintiff that the wrongs alleged by plaintiff occurred in Texas, and none of them arose in Massachusetts. This is a significant fact

in testing the efficacy of the service under section 3A.[2] That statute by its express terms applies only "in relation to any cause of action or proceeding arising out of such business". The courts of Massachusetts have considered this to mean limited to business arising within the Commonwealth. *Remington Arms Co. Inc.* v. *Lechmere Tire & Sales Co.*, 339 Mass. 131, 136 (1959). *Trojan Engineering Corp.* v. *Green Mountain Power Corp.*, 293 Mass. 377, 382 (1936). It follows from these cases, and from *Caso* v. *Lafayette Radio Electronics Corporation*, 370 F.2d 707, 711 n. 5 (1st Cir. 1966), that plaintiff's reliance on service of the process under section 3A is unavailing.

But it is argued by plaintiff that Instruments as a foreign corporation is amenable to service of process under the provisions of Mass. Gen. Laws, ch. 223, § 38,[3] the terms of which contain no express limiting factors such as appear in chapter 181, section 3A. Under section 38, service may be made on the Secretary, in the manner provided in section 37, if no officer or agent can be found in the Commonwealth. Without deciding the question, it will be assumed for the purpose of testing the applicability of section 38

---

[2] Mass. Gen. Laws, ch. 181, § 3A, in the aspects pertinent here, provides:

> Any such corporation which does business in this commonwealth without complying with the provisions of section three . . . shall . . . be deemed and held, in relation to any cause of action or proceeding arising out of such business, to have appointed the secretary . . . to be its true and lawful attorney, and any process in any such action or proceeding against it served upon the secretary . . . shall be of the same legal force and validity as if served on such corporation.

[3] Mass. Gen. Laws, ch. 223, § 38 provides, in pertinent part:

> In an action against a foreign corporation . . . engaged in or soliciting business in the commonwealth, permanently or temporarily, service may be made in accordance with [section 37] relative to service on domestic corporations in general, instead of . . . under section three or three A of chapter one hundred eighty-one.

that the manner of the service made here on the Secretary is effective as service authorized by section 38. *See* Fed. R. Civ. P. 4(d)(7). *See also* Mass. Acts of 1962, ch. 750, §§ 55, 56, 57, 58 and 71.

The question posed by plaintiff is the applicability of section 38 in the circumstances of the case. The court of appeals in this circuit in *Caso* v. *Lafayette Radio Electronics Corporation, supra*, pointed out the test it would apply in an action against a foreign corporation having limited business activity in Massachusetts (712):

> [T]he Massachusetts courts would assert jurisdiction over a foreign corporation served under section 38: (a) whenever the corporation's activities affect the commerce of Massachusetts substantially so that the state has an interest in regulating the general conduct of those activities ("doing business"), or (b) whenever the corporation's activities in Massachusetts have so affected the particular transaction at issue that it is appropriate to hear the claim in a Massachusetts court . . . .

It is apparent here from the admitted fact none of the alleged wrongs occurred in Massachusetts, that plaintiff's complaints have not been shown to have even remote contact with any of the corporation's activities within the Commonwealth. (It will later appear this is true also of Instruments' subsidiary.) Thus, the condition stated in "(b)" is absent here. As to condition "(a)", the facts of Instruments' business activities are as follows. Instruments maintains a small office in Waltham as a headquarters for nine salesmen who solicit orders in Massachusetts and the other New England states for electronic devices manufactured by Instruments, none of whom accept any orders taken, and none are authorized to do so. The orders are mailed to Instruments' Dallas, Texas headquarters for acceptance or refusal. Invoices are made in Dallas, and

mailed from there to the customers, and all remittances are sent by customers to Dallas. The six secretaries at Waltham type and file correspondence and other records relating to the orders taken by the salesmen. No shipping of merchandise, no collections and no deliveries are made to or from or handled in Waltham. Except for petty cash not exceeding $300, the automobiles of the salesmen, and the furniture in the office at Waltham, Instruments owns no property in Massachusetts. Instruments' subsidiary, Texas Instruments Supply Company, is a Texas corporation doing business in Canton, Massachusetts, registered to do business here as a foreign corporation, but not authorized to receive service of process for Instruments. Its business is that of industrial distributor, purchasing industrial products from various manufacturers, including Instruments, and selling to customers in Massachusetts and the other New England states. It carries on its own business and does not engage in Instruments' business. There is no showing that plaintiff's complaints had any contact with the business or management policies of Texas Instruments Supply Company. Moreover, there is no showing that the subsidiary *does not* carry out policies and business procedures entirely independent of Instruments, or that Instruments' personnel is associated with the subsidiary. There is no evidence of the dollar volume of sales made by Instruments to its subsidiary, and no evidence of the fractional part of the subsidiary's purchases supplied by Instruments.

The court finds that Texas Instruments Supply Company is not the agent of Instruments and is not the alter ego of Instruments in Massachusetts, that is is not subject to Instruments' control in the State, and has not been shown to make any significant contribution to the business activities of Instruments in the Commonwealth. *See Aro Manufacturing Co.* v. *Automobile Body Research Corp.*, 352 F.2d

400 (1st Cir. 1965), *cert. denied*, 383 U.S. 947 (1966). Taking into consideration the relations shown to exist in Massachusetts between Instruments and its subsidiary, together with all other activities of Instruments in the Commonwealth, the court finds that Instruments' impact on the commerce of the State is certainly no more marked, and apparently a good deal less so, than that of the defendant in *Caso*. Following the teaching of *Caso*, the court finds "no strong federal interest in taking jurisdiction here where it is not clear that [Massachusetts] would . . . ." *Caso* v. *Lafayette Radio Electronics Corporation*, *supra* at 713. The court holds, therefore, there is want of personal, jurisdiction over Instruments by service of process under section 38.

The court does not have personal jurisdiction over Instruments as a foreign corporation on any ground advanced by plaintiff. Nothing has appeared in the proceedings warranting the conclusion that to satisfy notions of fair play it is in the interest of justice to transfer the case against Instruments to another district. 28 U.S.C. § 1406(a). *Goldlawr, Inc.* v. *Heiman*, 369 U.S. 463 (1962); *Concession Consultants, Inc.* v. *Mirisch*, 355 F.2d 369 (2d Cir. 1966); *cf. Meench* v. *Raymond Corp.*, 283 F. Supp. 68 (E.D. Pa. 1968). Accordingly, Instruments' motion to quash the service is hereby allowed, and the case against it is hereby dismissed.

(s) FRANK J. MURRAY
United States District Judge

Dated December 31, 1969

APPENDIX C

UNITED STATES DISTRICT COURT
DISTRICT OF MASSACHUSETTS

Civil Action No. 67-369-M

ADAM FARKAS

v.

DALLAS MAYOR ERIK JONSSON,
TEXAS INSTRUMENTS, INC.,
LING-TEMCO-VOUGHT, INC., and
JOE MORRIS LANDTROOP, USN

ORDER

January 20, 1970

MURRAY, J.

This case came on to be heard on plaintiff's motion to amend complaint against Ling-Temco-Vought, and the defendant appeared by counsel and argued, the plaintiff not appearing by himself or by counsel; thereupon, upon consideration thereof, it is hereby

Ordered, that the motion be denied, not for want of prosecution, but in the exercise of the court's discretion, and the action be dismissed.

By the Court,
(s) ROBERT J. SMITH, JR.
Deputy Clerk

(s) FRANK J. MURRAY
United States District Judge

APPENDIX D

United States Court of Appeals
For the First Circuit

No. 7560

ADAM FARKAS,

APPELLANT,

v.

TEXAS INSTRUMENTS, INC.

and

LING-TEMCO-VOUGHT, INC.,

APPELLEES.

APPEAL FROM THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF MASSACHUSETTS

Before ALDRICH, *Chief Judge*,
McENTEE and COFFIN, *Circuit Judges*.

Adam Farkas, pro se.
Lane McGovern, with whom *Ropes & Gray* was on brief, for Texas Instruments Inc., appellee.
Harold Lavien, with whom *Brown, Rudnick, Freed & Gesmer* was on brief, for Ling-Temco-Vought, Inc., appellee.

July 10, 1970.

PER CURIAM. Plaintiff brought this damage action against Texas Instruments, Inc. (TI) and Ling-Temco-Vought, Inc. (LTV), both Delaware corporations alleged to be doing business in Massachusetts, for what appears to be wrongful discharge and conspiracy. Plaintiff appeals from orders dismissing the suit against TI for lack of jurisdiction over the person and denying leave to file an amended complaint against LTV.

The action against TI was dismissed on the ground that service of process in accordance with Mass. Gen. Laws Ann. ch. 181, § 3A (Supp., 1970) was ineffective, as TI was not doing business in the Commonwealth. On the assumption that the manner of service made would, in a proper instance, be effective under Mass. Gen. Laws Ann. ch. 223, § 38 (1958), the district court ruled that jurisdiction was nevertheless lacking because TI was not doing business in the state and that the claim in question did not arise out of any activity by TI in Massachusetts. *Cf. Caso* v. *Lafayette Radio Electronics Corp.*, 370 F.2d 707 (1st Cir. 1966). Prior to argument, this court requested the parties to show cause why the judgment below should not be affirmed under Local Rule 5 (now 6) in light of our recent decision in *Seymour* v. *Parke, Davis, Inc.*, 423 F.2d 584 (1st Cir. 1970). The plaintiff responded by contending that TI operates a large plant in Attleboro, Massachusetts, and is therefore doing business in the state. Counsel for TI represented to the court that the Attleboro plant is owned by a TI subsidiary, Texas Instruments, Inc., a Massachusetts corporation, and not by TI, against whom the action was brought. The court thereupon extended leave to the plaintiff to file copies of official documents, from the Secretary of State or otherwise, that would show that Texas Instruments, Inc. (Attleboro) is the same corporation as TI. Plaintiff having failed to do so,[1] the judgment of dismissal is affirmed on the opinion of the district court, *Farkas* v. *Texas Instruments, Inc.*, C.A. No. 67-369-M (D. Mass., filed Dec. 31, 1969), and *Seymour* v. *Parke, Davis, Inc.*, *supra*.

---

[1] Plaintiff filed copies of newspaper advertisements and other material purporting to show that TI is doing business in Massachusetts. None of it is responsive to the issue whether TI and Texas Instruments, Inc. (Attleboro) are one and the same. In view of plaintiff's lack of counsel, the court subsequently requested TI to file proof that Texas Instruments, Inc. (Attleboro) is a Massachusetts corporation. A certificate of the Secretary of State attesting to that fact has been filed with the court.

In the action against LTV, it is helpful to review the history of the litigation in considering the propriety of the district court's denial of plaintiff's motion of February 18, 1969, for leave to file an amended complaint. The original complaint was filed on May 5, 1967. LTV moved to strike the complaint under Fed. R. Civ. P. 12(f) and, as the original complaint was an extreme example of poor pleading, the district court struck it *in toto*, as to LTV, on September 11, 1967. Plaintiff moved for leave to amend on September 21 and, although the proposed amended complaint was hardly a model of fine draftsmanship, it did allege a conspiracy between LTV and TI to falsify plaintiff's medical records and thereby to prevent his securing employment. The motion was denied on November 9. Another motion for leave to amend was filed on November 22, the proposed complaint again setting forth, amidst a mass of irrelevant material, a claim that LTV and TI conspired as recited above. Leave was denied on June 25, 1968. Having been unsuccessful in bringing a complaint before the district court, plaintiff on June 28, 1968, filed a motion for "early judgment" in an apparent attempt to lay a foundation for an appeal. The motion was renewed on September 18, September 23, and November 5. On December 31, 1968, the district court granted LTV's motion to dismiss the action, but on January 2, 1969, vacated the judgment and denied the motion to dismiss. On February 4, 1969, plaintiff finally secured counsel and on February 18 another motion for leave to amend was filed. The proposed complaint, this time in proper form, alleged, inter alia, that LTV and TI conspired to prevent plaintiff from obtaining gainful employment. Leave to file the proposed complaint was denied and the action dismissed, both without opinion, on January 20, 1970. Plaintiff moved for rehearing, but subsequently withdrew his motion.

Although amendment of pleadings is largely a matter

within the discretion of the district court, Rule 15(a) provides that "leave shall be freely given when justice so requires." And, as the Supreme Court has stated, leave should be granted:

> "[i]n the absence of any apparent or declared reason — such as undue delay, bad faith or dilatory motive on the part of the movant, repeated failure to cure deficiencies by amendments previously allowed, undue prejudice to the opposing party by virtue of allowance of the amendment, [or] futility of amendment . . . ." *Foman* v. *Davis*, 371 U.S. 178, 182 (1962).

Regrettably, the district court did not give its reasons for denying leave to amend and we must therefore canvas the possible bases for doing so.[2] It is clear, however, that there was no showing or claim of prejudice by LTV at any point in these proceedings. Nor is there any claim of bad faith on the part of the plaintiff. In the absence of some finding on these points by the district court, we cannot ascribe its decision to them.

The delay involved here is insufficient reason for the denial of plaintiff's most recent motion. In the absence of prejudice or bad faith, a delay of this magnitude does not of itself support denial. *Middle Atlantic Utilities Co.* v. *S.M.W. Development Corp.*, 392 F.2d 380, 384 (2d Cir. 1968). Moreover, most of the delay is attributable not to plaintiff, but to the time spent by the court in considering pending motions in the case. Plaintiff's motion to amend on September 21, 1967, followed the striking of the complaint by only ten days, but was held under advisement until November 9. His motion of November 22 was prompt, but the court held it for seven months. Plaintiff then un-

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[2] The district court did expressly state that the denial was not based on want of prosecution. Accordingly, the denial cannot be affirmed on a default theory premised on plaintiff's failure to appear at a hearing on the motion.

successfully sought the entry of a final judgment from June 28, 1968, until early 1969. Finally, the motion to amend here at issue was held by the court for eleven months without decision. Under these circumstances we cannot permit denial of leave to amend to be premised upon the delay between the commencement of the action and the date on which the denial was entered.

Coming to the effect of the previous attempts to amend, we note that the proposed amended complaints submitted on September 21, and November 22, 1967, were at least arguably unsuccessful in their efforts to eliminate the rambling and immaterial allegations which the court apparently found objectionable in the original complaint. In the ordinary case, we would be inclined to uphold a trial court's exercise of discretion in denying leave to amend in like circumstances. Here, however, we are faced with a special circumstance in that the plaintiff, until the filing of the proposed complaint here at issue, was proceeding *pro se*. And while the standard which must be met in the drafting of pleadings is no different in such a case, the fact does bear on the propriety of the denial of leave to file an amended complaint, which was drafted by competent counsel and fully complies with Fed. R. Civ. P. 8, in light of the language of Rule 15(a) and *Foman*. In such circumstances, and absent bad faith or prejudice, we think the plaintiff should not be deprived of his day in court on the merits by virtue of having previously sought to file amendments *pro se* which did not meet proper standards of draftsmanship. The district court therefore erred in denying plaintiff's motion of February 18, 1969, for leave to file an amended complaint.

The judgment in favor of Texas Instruments, Inc., is affirmed. The judgment in favor of Ling-Temco-Vought, Inc., is reversed and the case remanded for proceedings consistent with this opinion.

APPENDIX E

STATUTES AND CONSTITUTIONAL PROVISIONS

28 U.S.C.A. § 1331. *Federal question; amount in controversy; costs*

(a) The district courts shall have original jurisdiction of all civil actions wherein the matter in controversy exceeds the sum of value of $10,000, exclusive of interest and costs, and arises under the Constitution, laws, or treaties of the United States.

* * *

§ 1391. *Venue generally*

(a) A civil action wherein jurisdiction is founded only on diversity of citizenship may, except as otherwise provided by law, be brought only in the judicial district where all plaintiffs or all defendants reside.

(b) A civil action wherein jurisdiction is not founded solely on diversity of citizenship may be brought only in the judicial district where all defendants reside, except as otherwise provided by law.

(c) A corporation may be sued in any judicial district in which it is incorporated or licensed to do business or is doing business, and such judicial district shall be regarded as the residence of such corporation for venue purposes.

(d) An alien may be sued in any district. June 25, 1948, c. 646, 62 Stat. 935.

§ 1983. *Civil action for deprivation of rights*

Every person who, under color of any statute, ordinance, regulation, custom, or usage, of any State or Territory, subjects, or causes to be subjected, any citizen of the United States or other person within the jurisdiction thereof to the deprivation of any rights, privileges, or immunities secured by the Constitution

and laws, shall be liable to the party injured in an action at law, suit in equity, or other proper proceeding for redress.

R.S. § 1979.

42 U.S.C.A. § 1985. *Conspiracy to interfere with civil rights — preventing officer from performing duties*

* * *

DEPRIVING PERSONS OF RIGHTS OR PRIVILEGES

(3) If two or more persons in any State or Territory conspire or go in disguise on the highway or on the premises of another, for the purpose of depriving, either directly or indirectly, any person or class of persons of the equal protection of the laws, or of equal privileges and immunities under the laws; or for the purpose of preventing or hindering the constituted authorities of any State or Territory from giving or securing to all persons within such State or Territory the equal protection of the laws; or if two or more persons conspire to prevent by force, intimidation, or threat, any citizen who is lawfully entitled to vote, from giving his support or advocacy in a legal manner, toward or in favor of the election of any lawfully qualified person as an elector for President or Vice President, or as a Member of Congress of the United States; or to injure any citizen in person or property on account of such support or advocacy; in any case of conspiracy set forth in this section, if one or more persons engaged therein do, or cause to be done, any act in furtherance of the object of such conspiracy, whereby another is injured in his person or property, or deprived of having and exercising any right or privilege of a citizen of the United States, the party so injured or deprived may have an action for the recovery of damages, occasioned

by such injury or deprivation, against any one or more of the conspirators. R.S. § 1980.

* * *

CONSTITUTIONAL PROVISIONS

* * *

Amendment 14

Section 1. All persons born or naturalized in the United States, and subject to the jurisdiction thereof, are citizens of the United States and the State wherein they reside. No State shall make or enforce any law which shall abridge the privileges or immunities of citizens of the United States; nor shall any State deprive any person of life, liberty, or property, without due process of law; nor deny to any person within its jurisdiction the equal protection of the laws.

MASSACHUSETTS GENERAL LAWS, CHAPTER 223

§ 38. *Foreign corporations*

In an action against a foreign corporation, except an insurance company, which has a usual place of business in the commonwealth, or, with or without such usual place of business, is engaged in or soliciting business in the commonwealth, permanently or temporarily, service may be made in accordance with the provisions of the preceding section relative to service on domestic corporations in general, instead of upon the commissioner of corporations and taxation under section three or section three A of chapter one hundred and eighty-one. As amended St. 1939, c. 452, § 61.

APPENDIX F

EXHIBIT H

AFFIDAVIT

STATE OF TEXAS

COUNTY OF DALLAS, ss.

I, Bryan F. Smith, being first duly sworn, depose and say as follows:

1. I am a Senior Vice President and Secretary of the defendant Texas Instruments Incorporated and am familiar with its various business activities in the United States. I am the same Bryan F. Smith whose affidavits dated August 21, 1967 and December 23, 1968 are on file with the papers of this case.

2. The statements set forth in my two prior affidavits are correct, except that there are now in the Waltham Sales Office nine rather than six solicitors, six rather than four secretaries and the office maintains a petty cash checking account of up to $300.00.

3. I have read the plaintiff's amended complaint, referred to in the Court's Order of June 9, 1969, and am generally familiar with the claims which the plaintiff, Adam Farkas, has made against Texas Instruments Incorporated in recent years. The claims alleged in the plaintiff's amended complaint relate to business which was done by Texas Instruments Incorporated and events which took place only in the State of Texas.

(s) BRYAN F. SMITH

BRYAN F. SMITH,

Senior Vice President and Secretary

Texas Instruments Incorporated

Subscribed and sworn to before me this 9th day of September, 1969.

(s) CLARA C. O'DONNELL

Notary Public

My Commission expires June 1, 1971

Filed in open court 9/18/69 — *RJS*

APPENDIX G

[Letterhead — OFFICE OF THE CLERK
UNITED STATES COURT OF APPEALS
FOR THE FIRST CIRCUIT]

May 20, 1970

To Mr. Farkas and Mr. McGovern:

No. 7560. Farkas v. *Texas Instruments, Inc., et al.*

Dear Sirs:

The court has requested me to call your attention to its recent decision *Seymour* v. *Parke, Davis, Inc.*, a copy of which is enclosed.

In the light of that case the court proposes to affirm the judgment below as to Texas Instruments, Inc. under Local Rule 5 at the call on Tuesday, June 2nd unless appellant shall show in writing at or before that time why it should not do so.

Sincerely yours,
(s) DANA H. GALLUP
Clerk.

DHG:gvc
Enclosure

MR. ADAM FARKAS
83 State Street
Bristol, Rhode Island 02809
LANE McGOVERN, Esquire
225 Franklin Street
Boston, Massachusetts 02110
courtesy cc: HAROLD LAVIEN, Esquire
85 Devonshire Street
Boston, Massachusetts 02109

Helicopter rotors—what Whittaker calls a "materials system"—are finished for Vietnam-bound whirlybirds.

puting until 1964, although Whittaker remained the principal shareholder and stayed at the helm. (Now chairman of the board, Whittaker pulled out of day-to-day management after persuading Duke to take the presidency in 1964.)

The company got into materials with the acquisition of Monrovia Aviation Corp., a maker of metal "sandwiches" for aircraft subassemblies, and Narmco Industries, a company specializing in structural adhesives and plastics. There was no chance to build on this base until 1965, when Duke installed tighter business controls, doubled and decentralized the marketing effort, and cut out some of the company's marginal product lines.

Within and without. About half of Whittaker's growth to sales of $84-million in 1966 was internal. "You couldn't stand in the way of that great thrust in aerospace spending, and not grow," says Duke. This year's growth to around $200-million has been 35% internal. The rest has come from acquisitions, and Duke seems disinclined to slow his pace in this direction.

At last count, 20 acquisitions have been made or announced this year. Recent deals have shown a trend to bigger game—Shakespeare Co., for example, had sales of $33.6-million last fiscal year.

"In order to have the necessary muscle to do a real materials system job in the several fields we've picked," Duke says, "we'd have to be between $800-million and $1-billion in sales. We aspire to reach that level by 1972." **End**

If you really want to make some money, move to Massachusetts.

Texas Instruments did.

And made (among other things) the copper and nickel sandwich that is minted into quarters and dimes. Added 110,000 square feet of manufacturing space in Massachusetts in 1966. Increased employment here by 50% in the past four years.

Why Massachusetts? Maybe it's the co-operative work force—unmatched among industrial states for its varied skills and adaptability.

Or the schools, research complexes, transportation network.

If Texas Instruments — like thousands of other companies — found a good deal here, you could too. Phone (617) 727-3208, or write Massachusetts Dept. of Commerce & Development, 100 Cambridge Street, Boston, Mass. 02202, Dept. B-2.

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Supreme Court, U.S.
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FEB 5 1971

In the
Supreme Court of the United States

OCTOBER TERM, 1970

No. 1170

ADAM FARKAS,
PETITIONER,

v.

TEXAS INSTRUMENTS, INC.,
RESPONDENT.

ON PETITION FOR A WRIT OF CERTIORARI
TO THE UNITED STATES COURT OF APPEALS
FOR THE FIRST CIRCUIT

BRIEF FOR RESPONDENT IN OPPOSITION

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INDEX

	Page
OPINIONS BELOW	1
STATUTES INVOLVED	2
QUESTIONS PRESENTED	2
STATEMENT OF THE CASE	3
ARGUMENT	7
I. ALLOWANCE OF THE MOTION TO QUASH WAS PROPER BECAUSE SERVICE OF PROCESS ON THE SECRETARY OF STATE WAS NOT EFFECTIVE TO CONFER JURISDICTION OVER THE DEFENDANT	8
A. *Section 3 Of Chapter 181 Of The General Laws Of Massachusetts Is Not Applicable Because The Defendant Is Not A Foreign Corporation Registered To Do Business In Massachusetts*	8
B. *Section 3A Of Chapter 181 Of The General Laws Of Massachusetts Does Not Make The Defendant Subject To Jurisdiction Because The Plaintiff's Claims Do Not Arise From Business Done By The Defendant In Massachusetts*	9
II. DISMISSAL OF THE ACTION WAS PROPER BECAUSE THE PLAINTIFF DID NOT SHOW THAT THERE IS ANOTHER METHOD OF SERVICE BY WHICH PERSONAL JURISDICTION MAY BE OBTAINED OVER THE DEFENDANT	10
A. *Service Of Process Pursuant To Section 38 Of Chapter 223 Of The General Laws Of Massachusetts Would Not Be Effective*	11
CONCLUSION	13
APPENDIX A	14

Page

TABLE OF CITATIONS

Cases

Avo Mfg. Co. v. Automobile Body Research Corp., 352 F.2d 460 (1st Cir. 1965) 10
Boston Packaging Machinery Co. v. Woodman Co., 125 F. Supp. 367 (D. Mass. 1954) 10
Canvas Fabricators Inc. v. William E. Hooper & Sons, 199 F.2d 485 (7th Cir. 1952) 11
Cano v. Lafayette Radio Electronics Corp., 370 F.2d 707 (1st Cir. 1966) 10, 11, 13
Coakley v. Frank A. Massey Co., 50 F. Supp. 83 (D. Mass. 1943) 10
Farkas v. Texas Instruments, Inc. and Ling-Temco-Vought Inc., 375 F.2d 629 (5th Cir. 1967), cert. denied 389 U.S. 977 (1967) 3, 7
Jones v. Motorola, Inc., 186 F.2d 707 (2d Cir. 1939) 10
Lizotte v. Canadian Johns-Manville Co., 387 F.2d 607 (1st Cir. 1967) 11
Nichols v. Curtis Magazines, Inc., 203 F. Supp. 864 (D. Mass. 1962), Modified on other grounds 168 F. Supp. 883 10
Remington Arms Co., Inc. v. Lechmere Tire Sales Co., 339 Mass. 131, 158 N.E. 2d 134 (1959) 9
Seymour v. Parke, Davis, Inc., 423 F.2d 384 (1st Cir. 1970) 5, 6
Trojan Engineering Corp. v. Green Mountain Power Corp., 293 Mass. 377, 200 N.E. 117 (1936) 12
William I. Horlick Co., Inc. v. Bogue Electric Mfg. Co., 140 F. Supp. 514 (D. Mass. 1956) 10
Wilson v. Hazard, 145 F. Supp. 23 (D. Mass. 1956) 10

Page

Massachusetts Statutes

General Laws (Ter. Ed.):
c. 181, § 3 ..... 2, 8, 14
§ 3A 2, 4, 5, 7, 8, 9, 10, 14
c. 223, § 37 ..... 2, 15
§ 38 ..... 2, 3, 5, 11, 17

Miscellaneous

2 Moore, *Federal Practice* (2d Ed.) ¶ 4.25 [5] 12
Rule 12(b), *Federal Rules of Civil Procedure* 2
Rule 19, *Rules of the Supreme Court of the United States* 2

In the
Supreme Court of the United States

October Term, 1970

No. 1170

ADAM FARKAS,
PETITIONER,

v.

TEXAS INSTRUMENTS, INC.,
RESPONDENT.

ON PETITION FOR A WRIT OF CERTIORARI TO THE UNITED STATES COURT OF APPEALS FOR THE FIRST CIRCUIT

BRIEF FOR RESPONDENT IN OPPOSITION

OPINIONS BELOW

The Memorandum Opinion of the District Court (A. 23-28)[1] is not reported. The per curiam opinion of the United

[1] In this brief the citation "A" followed by a number refers to a page of one of the Appendices attached to the Petition for a Writ of Certiorari.

States Court of Appeals for the First Circuit (A. 30-34) is reported at 429 F. 2d 849.

STATUTES INVOLVED

Sections 3 and 3A of Chapter 181 and Sections 37 and 38 of Chapter 223 of the General Laws (Ter. Ed.) of Massachusetts are set forth in Appendix A to this brief.

QUESTIONS PRESENTED

The single question presented for review in this case is whether the United States Court of Appeals for the First Circuit was correct in affirming the District Court's judgment of dismissal as against the defendant Texas Instruments Incorporated because of "lack of jurisdiction over the person." Rule 12(b), *Federal Rules of Civil Procedure.*

No novel point of state or federal law is involved, nor are there any other "special and important reasons" for granting certiorari in this case. Rule 19, *Rules of the Supreme Court of the United States.* The jurisdictional question breaks down into two specific and essentially routine questions of statutory interpretation. These two questions, involving two Massachusetts service of process statutes, are as follows:

1. Whether service of process on the Secretary of State of the Commonwealth of Massachusetts pursuant to Section 3A of Chapter 181 of the Massachusetts General Laws was effective to confer jurisdiction over the defendant, a foreign corporation, where the plaintiff's causes of action did not arise out of any activity of the defendant in Massachusetts and the statute specifically states that service in accordance with its terms is effective "in relation to any cause of action

or proceeding arising out of" business done by a foreign corporation defendant in Massachusetts.

2. Assuming the plaintiff were to attempt service of process pursuant to Section 38 of Chapter 223 of the Massachusetts General Laws, whether the provisions of that statute would confer jurisdiction over the defendant, a foreign corporation, where the plaintiff is a non-resident of Massachusetts, the defendant's activity in Massachusetts is limited to the solicitation of orders by nine salesmen who cover New England, and the plaintiff's causes of action are completely unrelated to Massachusetts or to the solicitation defendant does in Massachusetts.

STATEMENT OF THE CASE

The petitioner Adam Farkas (hereinafter "Farkas" or "the plaintiff") is a citizen of Rhode Island who formerly resided in Texas where for a time he was an employee of the respondent Texas Instruments Incorporated (referred to as "Texas Instruments, Inc." in the petitioner's papers). The respondent Texas Instruments Incorporated (hereinafter "TI" or "the defendant") is a Delaware corporation having its principal place of business in Dallas County, Texas.

On May 5, 1967 Farkas began this action, "for what appears to be wrongful discharge and conspiracy" (A. 30), in the United States District Court for the District of Massachusetts (A. 32). The named defendants were "Dallas Mayor, Erik Jonsson, Texas Instruments, Inc., Ling-Temco-Vought, Inc. (hereinafter "LTV") and Joe Morris Landtroop, USN" (A. 22). In substance the complaint recited the same grievances against TI and LTV as those dealt with approximately one month earlier by the United States Court of Appeals for the Fifth Circuit in *Farkas* v.

Texas Instrument, Inc. and Ling-Temco-Vought, Inc. 375 F.2d 620 (5th Cir., March 31, 1967) *cert. denied* 389 U.S. 977 (1967).

Service of process was purportedly made upon TI by delivery of copies of the summons and complaint at the office of the Secretary of State of the Commonwealth of Massachusetts in accordance with Chapter 181 of the General Laws of Massachusetts (A. 23-24). TI is not registered as a foreign corporation in Massachusetts (A. 24). Service of process was never made upon the two individual defendants and a subsequent motion by the plaintiff to dismiss as to them was allowed. LTV, which is registered as a foreign corporation in Massachusetts, was served by means of service on the Secretary.

Since the original complaint was not in proper form (A. 32), motions to strike by TI and LTV were allowed, the plaintiff being granted leave to file a motion to amend his complaint. On two subsequent occasions the plaintiff moved to amend his complaint but the motions were not allowed (A. 32). In February 1969 James J. Twohig, Esq., an attorney, filed his appearance on behalf of the plaintiff (A. 32).[2] A new motion to file an amended complaint was filed (A. 32) and later allowed as against TI. As against LTV, the decision of the Court was reserved. TI thereupon filed a motion to quash service of process and to dismiss on the ground that the plaintiff's service of process on TI was ineffective and did not subject it to personal jurisdiction (A. 23-24).

On December 31, 1969, after hearing, the motion to dismiss was allowed and a memorandum opinion filed (A. 23-28). The District Court held that service on the Secretary did not confer jurisdiction over TI pursuant to G.L. (Ter. Ed.) c. 181 §3A because the plaintiff's claims arose in

[2] Earlier in the case Ira L. Schreiber, Esq., was attorney for Farkas during the period from June 16, 1967 to September 11, 1967.

Texas, whereas Section 3A applies by its express terms only "in relation to any cause of action or proceeding arising out of such [i.e. Massachusetts] business". (A. 24-25). It further held that service on TI pursuant to G.L. c. 223 §38 — the only other ground advanced by the plaintiff — would not be effective either (A. 28). That statute, as interpreted by the Massachusetts courts, does not provide jurisdiction where the defendant's activities in the state are not substantial and the claims of the plaintiff (a non-resident) have no connection whatever with such in-state activities. (A. 25-28).

Shortly thereafter, on January 20, 1970, at a hearing of plaintiff's motion to amend his complaint as against LTV, no one appeared for the plaintiff (A. 29). The motion was denied in the exercise of the court's discretion, and an order entered dismissing the action (A. 29). Subsequently the plaintiff moved for rehearing of his motion to file an amended complaint as against LTV (A. 32). This motion for rehearing was scheduled to be heard on February 3, 1970, but on January 28, 1970 the plaintiff filed a withdrawal of the motion (A. 32).

On appeal, the United States Court of Appeals for the First Circuit affirmed the judgment of dismissal as against TI "on the opinion of the district court . . . and *Seymour* v. *Parke, Davis, Inc.*", 423 F.2d 584 (1st Cir. 1970). The judgment in favor of LTV was reversed and the case against it remanded for further proceedings. In *Seymour*, decided a few months earlier, the Court of Appeals had held that service pursuant to the terms of New Hampshire's long arm statute was not constitutionally permissible where the defendant's activity in the state was slight (principally the solicitation of orders by a half dozen salesmen), the plaintiff's cause of action was completely unrelated to New Hampshire, and the plaintiff himself had no connection with the forum.

Prior to oral argument, the Court of Appeals had called to the attention of Farkas and TI its recent decision in *Seymour* v. *Parke, Davis, Inc.* (A. 39), saying that it proposed to summarily affirm the judgment in favor of TI under a local rule of court unless Farkas indicated in writing why it should not do so (A. 39). Farkas replied "by contending that TI operates a large plant in Attleboro, Massachusetts" (A. 31). TI, on the other hand, "represented to the court that the Attleboro plant is owned by a TI subsidiary, Texas Instruments, Inc., a Massachusetts corporation, and not by TI, against whom the action was brought." (A. 31).

The appeal was argued in the usual way and summary disposition was not made pursuant to local rule. The Court granted leave to Farkas "to file copies of official documents, from the Secretary of State or otherwise, that would show that Texas Instruments, Inc. (Attleboro) is the same corporation as TI." (A. 31). Farkas did not do so (A. 31). Subsequently, TI, at the request of the Court, filed a certificate of the Secretary of State attesting to the fact "that Texas Instruments, Inc. (Attleboro) is a Massachusetts corporation" (A. 31).

The petitioner has improperly inserted in his Petition (at pages 15-19) "pieces of evidence thrown out by U.S. Chief Judge Aldrich" (Petition, p. 14) which are not a part of the record before this Court. In addition, a significant portion of the Petition relates, not to the jurisdictional question under consideration, but to various asserted facts bearing upon the petitioner's underlying claims. (See e.g. Petition, pp. 4-7). TI will not in this brief present argument with respect to these matters that are not before the Court. It suffices to say that it is TI's position that the plaintiff's claims of conspiracy, wrongful discharge, black-

listing, etc. are unfounded — a position supported, it will be noted, by a decision of The President's Committee on Equal Employment Opportunity. *Farkas* v. *Texas Instrument, Inc. and Ling-Temco-Vought, Inc.*, 375 F.2d 629, 633 (5th Cir. 1967) *cert. denied* 389 U.S. 977 (1967).

ARGUMENT

In this case the plaintiff is not a resident of Massachusetts; the causes of action he alleges did not arise in Massachusetts; and although the defendant TI solicits orders in Massachusetts, it does not engage in local business there, it is not qualified there as a foreign corporation, and the plaintiff's causes of action did not arise from the solicitation which TI does there. Service of process was purportedly made upon TI pursuant to Section 3A of Chapter 181 of the General Laws of Massachusetts by delivery of copies of the summons and complaint to the Secretary of State for the Commonwealth. The District Court ruled that this service was ineffective because Section 3A of Chapter 181 applies by its terms only with respect to causes of action arising from business done by the defendant in Massachusetts. It further ruled that personal jurisdiction did not exist over TI "on any [other] ground advanced by plaintiff" and therefore dismissed the action as against TI (A. 28). The Court of Appeals affirmed the judgment of dismissal (A. 31).

These rulings were fully warranted. They follow the governing Massachusetts state court and federal court decisions interpreting the statutes in question. They raise no novel point of law. They present no conflict with decisions of this Court or of the other Courts of Appeals.

I. ALLOWANCE OF THE MOTION TO QUASH WAS PROPER BECAUSE SERVICE OF PROCESS ON THE SECRETARY OF STATE WAS NOT EFFECTIVE TO CONFER JURISDICTION OVER THE DEFENDANT.

A. *Section 3 Of Chapter 181 Of The General Laws Of Massachusetts Is Not Applicable Because The Defendant Is Not A Foreign Corporation Registered To Do Business In Massachusetts.*

The provisions of Massachusetts law which relate to service upon the Secretary of State as a means of serving foreign corporations with process are Sections 3 and 3A of Chapter 181 of the General Laws.

Section 3 has no application in this instance. It refers solely to foreign corporations which have qualified to do business in Massachusetts and, in connection with such qualification, have filed a written statement appointing the Secretary of State as their "true and lawful attorney upon whom lawful process in any action or proceeding . . . may be served." TI, however, as the District Court found, "was not registered under Mass. Gen. Laws, Ch. 181, to do business in the Commonwealth when the process was served on the Secretary"; "was last qualified on January 11, 1961, when it filed with the Secretary an affidavit of withdrawal of the right to do business in Massachusetts"; "has never registered here since that date"; and "has not appointed the Secretary under Mass. Gen. Laws, Ch. 181, §3, its agent to receive service of process against it." (A. 24).

As a result, service upon the Secretary of State was not effective to confer jurisdiction over TI unless the provisions of Section 3A of Chapter 181 are applicable.

B. *Section 3A Of Chapter 181 Of The General Laws Of Massachusetts Does Not Make The Defendant Subject To Jurisdiction Because The Plaintiff's Claims Do Not Arise From Business Done By The Defendant In Massachusetts.*

Section 3A of Chapter 181 of the General Laws of Massachusetts confers jurisdiction over a foreign corporation defendant only when that corporation is doing business in Massachusetts and the cause of action alleged by the plaintiff is a cause of action which arose out of such business. The specific language of Section 3A is, in part, as follows:

> "Any such corporation which does business in this commonwealth without complying with the provisions of section three, . . . shall, without affecting any penalty, liability or disability imposed by section five, be deemed and held, *in relation to any cause of action or proceeding arising out of such business*, to have appointed the secretary and his successor in office to be its true and lawful attorney, and any process in any such action or proceeding against it served upon the secretary or his successor in office shall be of the same legal force and validity as if served on such corporation." (Emphasis added.)

The Supreme Judicial Court of Massachusetts has said that the term "arising out of such business" means "business arising in this Commonwealth." *Remington Arms Company, Inc.* v. *Lechmere Tire & Sales Co.*, 339 Mass. 131, 136, 158 N.E. 2d. 134, 138 (1959).

In accordance with this express statutory requirement, the decisions in the First Circuit have uniformly held that service upon the Secretary of State pursuant to Section 3A does not confer jurisdiction over a foreign corporation

when the cause of action alleged by the plaintiff does not arise out of business done by the foreign corporation within the Commonwealth of Massachusetts. *Boston Packaging Machinery Co.* v. *Woodman Company*, 125 F. Supp. 567 (D. Mass. 1954); *William I. Horlick Co., Inc.* v. *Bogue Electric Manufacturing Co.*, 140 F. Supp. 514 (D. Mass. 1956); *Nichols* v. *Cowles Magazines, Inc.*, 103 F. Supp. 864, at 866 (D. Mass. 1952), *modified on other grounds* 108 Supp. 883; *Coakley* v. *Frank A. Munsey Co.*, 50 F. Supp. 83, at 85 (D. Mass. 1943). And see *Caso* v. *Lafayette Radio Electronics Corp.*, 370 F.2d 707, 711 n. 5 (1st Cir. 1966).

That is the case here. The District Court specifically found that "the wrongs alleged by plaintiff occurred in Texas" and were unrelated to Massachusetts (A. 24). The provisions of Section 3A, therefore, are not applicable.

II. DISMISSAL OF THE ACTION WAS PROPER BECAUSE THE PLAINTIFF DID NOT SHOW THAT THERE IS ANOTHER METHOD OF SERVICE BY WHICH PERSONAL JURISDICTION MAY BE OBTAINED OVER THE DEFENDANT.

Where service has been ineffectual and a motion to quash allowed, an action will be dismissed if there is no likelihood that personal jurisdiction can be obtained over the defendant by another method of service. *Jones* v. *Motorola, Inc.*, 186 F.2d 707 (2d Cir. 1959); *Wilson* v. *Hazard*, 145 F. Supp. 23 (D. Mass. 1956); *Boston Packaging Machinery Co.* v. *Woodman Co.*, 125 F. Supp. 567 (D. Mass. 1954); *Nichols* v. *Cowles Magazines, Inc.*, 108 F. Supp. 883 (D. Mass. 1952). Since the plaintiff has the burden of proving the prerequisite jurisdictional facts, dismissal of the action is proper unless the plaintiff makes the necessary showing that another method of obtaining jurisdiction exists. *Aro Manufacturing Co.* v. *Automobile*

Body Research Corp., 352 F.2d 460, 463, (1st Cir. 1965); *Lisotte* v. *Canadian Johns-Manville Co.*, 367 F.2d 607, 608 (1st Cir. 1967). *Canvas Fabricators Inc.* v. *William E. Hooper & Sons Co.*, 199 F.2d 485, 488 (7th Cir. 1952).

In the present case the plaintiff argued below that another such method does exist — i.e. service on TI in accordance with Section 38 of Chapter 223 of the General Laws of Massachusetts. The courts below correctly held, however, that this statute, properly construed, also does not confer personal jurisdiction over TI under the circumstances of this case.

A. *Service Of Process Pursuant To Section 38 Of Chapter 223 Of The General Laws Of Massachusetts Would Not Be Effective.*

Section 38 of Chapter 223 of the General Laws provides that service may be made upon a foreign corporation "engaged in or soliciting business in the commonwealth" in accordance with the provisions of Section 37 of the same chapter. The latter section provides for service to be made "upon the president, treasurer, clerk, cashier, secretary, agent or other officer in charge of [the corporation's] business, or, if no such officer is found within the county, upon any member of the corporation."

The Massachusetts law on the jurisdictional scope of this statute has been carefully analyzed by the United States Court of Appeals for the First Circuit in *Caso* v. *Lafayette Radio Electronics Corporation*, 370 F.2d 707 (1st Cir. 1966). Under the principles there laid down, it is clear that TI would not be subject to service. In the first place, its activity in Massachusetts consists of the solicitation of orders for interstate sales — and this alone has never been found sufficient in Massachusetts as a basis for personal jurisdiction under Section 38 (*Id* at 711). Second, even if

TI's activity in Massachusetts amounts to "solicitation plus", this (with one exception) has not been considered by the Massachusetts courts to be sufficient as a basis for personal jurisdiction where, as here, "the cause of action did not arise out of the activities in Massachusetts" (*Id* at 711-712).

The one exception to this second principle — i.e. "where the [foreign] corporation's activities more closely approximate[d] the regular conduct of a domestic corporation" (*Id* at 712) — is also not applicable to the facts of this case. TI's activity in Massachusetts, even if it transcends "mere solicitation" and "solicitation plus", by no means may be said to closely approximate "the regular conduct of a domestic corporation." TI's small sales office in Waltham serves as a headquarters for nine salesmen who solicit orders throughout New England. (A. 26). It makes no sales in Massachusetts; keeps no stock of goods here; does no invoicing; makes no deliveries; makes no collections; and receives no remittances (A. 26-27). This falls far short of "the regular conduct of a domestic corporation." *Cf. Trojan Engineering Corp.* v. *Green Mountain Power Corp.*, 293 Mass. 377, 200 N.E. 117 (1936).

Furthermore, there is no basis for subjecting TI to jurisdiction simply because it has subsidiary corporations in Massachusetts — one in Canton and another in Attleboro. As a general rule, "the relationship of parent corporation and subsidiary corporation is not of itself a sufficient basis for subjecting the nonresident parent corporation to the jurisdiction of the forum state." 2 Moore, *Federal Practice* (2d Ed.) ¶ 4.25 [6], p. 1174. In the First Circuit's words, "the separate corporate identity, although formal, is real." *Caso* v. *Lafayette Radio Electronics Corp.*, 370 F.2d 707, 712 (1st Cir. 1966). To be sure, if a plaintiff establishes that the parent exercises a large degree of control over the various aspects of the subsidiary's busi-

ness, and that the subsidiary exerts itself solely for the benefit of the parent, an agency relationship may be inferred which would support a finding that the parent itself is "doing business" within the state. *Cuno v. Lafayette Radio Electronics Corp.*, *supra* at 712-713. That is not the case here. The record is completely devoid of any such proof. Furthermore, it will be noted that both of the TI subsidiaries — the Canton distributor which is registered here as a foreign corporation (A. 27), and the Attleboro subsidiary which is a domestic corporation (A. 31) — are clearly subject to suit in Massachusetts, a factor which should "lessen the state's interest in regulation of the foreign [parent] corporation." *Cuno* v. *Lafayette Radio Electronics Corp.*, 370 F.2d 707, 712 (1st Cir. 1966).

CONCLUSION

For the reasons stated, the petition for a writ of certiorari should be denied.

Respectfully submitted,

LANE MCGOVERN
225 Franklin Street
Boston, Massachusetts 02110
Attorney for the Respondent
Texas Instruments, Inc.

Of Counsel:
ROPES & GRAY
225 Franklin Street
Boston, Massachusetts

APPENDIX A

STATUTES INVOLVED

Massachusetts General Laws (Ter. Ed.) c. 181, §3:

§ 3. State Secretary to Be Appointed Attorney for Service of Process.

Every foreign corporation, which does business in this commonwealth or which has a usual place of business in this commonwealth, or owns real property therein without having such a usual place of business or, which is engaged therein, permanently or temporarily, and with or without a usual place of business therein, in the construction, erection, alteration or repair of a building, bridge, railroad, railway or structure of any kind, or in the construction or repair of roads, highways or waterways, or in any other activity requiring the performance of labor, shall, before doing business in this commonwealth, in writing appoint the state secretary and his successor in office to be its true and lawful attorney upon whom all lawful processes in any action or proceeding against it may be served, and in such writing shall agree that any lawful process against it which is served on said attorney shall be of the same legal force and validity as if served on the corporation, and that the authority shall continue in force so long as any liability remains outstanding against the corporation in this commonwealth. The power of attorney and a copy of the vote authorizing its execution, duly certified and authenticated, shall be filed in the office of the said secretary, and copies certified by him shall be sufficient evidence thereof. Service of such process shall be made by leaving a copy of the process in duplicate with a fee of two dollars in the hands of the secretary, or his deputy, or in the office of the secretary, and such service shall be sufficient service upon the corporation.

Massachusetts General Laws (Ter. Ed.) c. 181, §3A:

§ 3A. Certain Foreign Corporations Failing to Register to Be Deemed to Have Appointed Secretary for Service of Process.

Any such corporation which does business in this commonwealth without complying with the provisions of section three, including a corporation as to which the secretary is required by section six to refuse appointment as attorney for service, shall, without affecting any penalty, liability or disability imposed by section five, be deemed and held, in relation to any cause of action or proceeding arising out of such business, to have appointed the secretary and his successor in office to be its true and lawful attorney, and any process in any such action or proceeding against it served upon the secretary or his successor in office shall be of the same legal force and validity as if served on such corporation.

Massachusetts General Laws (Ter. Ed.) c. 223, §37:

§ 37. Actions against Corporations, Person upon Whom Service Shall Be Made.

In an action against a county, city, town, parish or religious society, or against the proprietors of wharves, general fields or real estate lying in common, who are incorporated, service shall be made upon the treasurer thereof, or if no treasurer is found, upon one of the county commissioners, the city clerk or one of the aldermen, the town clerk or one of the selectmen, upon one of the assessors or standing committee of the parish or religious society, or upon one of the proprietors of such land or other estate, as the case may be. If there are no such officers as are mentioned in this section, service shall be made upon one of the inhabitants of the county, city or town, or upon one of the members of the corporation.

In an action against a domestic corporation other than one mentioned in the preceding paragraph service shall be made upon the president, treasurer, clerk, resident agent appointed pursuant to section forty-nine of chapter one hundred and fifty-six B, cashier, secretary, agent or other officer in charge of its business, or, if no such officer is found within the county, upon any member of the corporation. If an officer authorized to serve legal process makes a return on such process that, after diligent search, he can find no one upon whom he can lawfully make service as aforesaid, the court to which such process is returned may upon application issue an order of notice to such corporation, directing it to appear and answer within a designated period. Such order of notice shall contain an exact copy of the legal process referred to in the preceding sentence. The party making such application shall deliver a copy of such order in duplicate with a fee of two dollars to the state secretary or a deputy, or in the office of said secretary. Said secretary shall forthwith cause said copy to be forwarded by registered mail, return receipt requested, to such corporation at such address as may be designated for the purpose by a writing signed by its president, treasurer or clerk and filed with said secretary or if no such address has been designated, to its principal place of business in the commonwealth as stated in the last certificate of condition filed by it or, if no certificate has been filed by it, as stated in its articles of organization or any articles of amendment thereof. As soon as may be after such mailing by said secretary, he shall transmit a certificate to the court issuing such order, stating that he has complied with the provisions of this section, and shall attach thereto the return receipt or the undelivered copy, as the case may be. The clerk shall note upon the docket the name of the corporation and the address to which such copy was mailed by the secretary, and shall file with the papers in the case the certificate of

the secretary and the return receipt or undelivered copy, as the case may be, and such service shall be a sufficient service upon such corporation. The court in which the action is pending may order such continuances as may be necessary to afford the corporation reasonable opportunity to defend the action.

Massachusetts General Laws (Ter. Ed.) c. 223, §38:

§ 38. Service on Foreign Corporations.

In an action against a foreign corporation, except an insurance company, which has a usual place of business in the commonwealth, or, with or without such usual place of business, is engaged in or soliciting business in the commonwealth, permanently or temporarily, service may be made in accordance with the provisions of the preceding section relative to service on domestic corporations in general, instead of upon the commissioner of corporations and taxation under section three or section three A of chapter one hundred and eighty-one.

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FILED
FEB 19 1971
E. ROBERT SEAVER, CLERK

In the
Supreme Court of the United States

OCTOBER TERM, 1970

No. 1170

ADAM FARKAS,
PETITIONER,

v.

TEXAS INSTRUMENTS, INC.,
RESPONDENT.

REPLY BRIEF

ADAM FARKAS
Pro Se
83 State Street
Bristol, Rhode Island

Blanchard Press, Inc., Boston, Mass. — Law Printers

In the

Supreme Court of the United States

October Term, 1970

No.

ADAM FARKAS,
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TEXAS INSTRUMENTS, INC.,
RESPONDENT.

REPLY BRIEF

With a great deal of self-confidence the lawyer for the Defendant Texas Instruments, Inc., advises the Supreme Court of the United States that my petition is not worthy of hearing by this Court because I do not present a "novel point of State or federal law. . . . nor are there any other special and important reasons for granting" a hearing in my case.

Thus, I respectfully recall that the case here is an action at law for "conspiracy." My complaint specifically alleges that "The defendant Texas Instruments, Inc., conspired with the officers of the State Police and in concerted ac-

tions with the officers of the Police Department subjected me and persons connected with me to a police harassment program (continued surveillance, direct threats, etc.) in order to prevent me from obtaining work to support my family."

I do not know what the defendant's lawyer calls "special" or "important" reasons for granting a hearing by this Court. However, there is no doubt in my mind, that the overwhelming majority of Americans would find it very "important" that the U. S. District Courts and the Court of Appeals summarily dismiss complaints against Corporations which receive the help of the State Police for the harassment and blacklisting of former employees.

Insofar as the "novel point of law" is concerned the summary dismissal of my case is patterned after a most recent precedent in the case of *Seymour* v. *Parke, Davis, Inc.* wherein U. S. Chief Appeal Judge Aldrich set aside the State and federal laws for the sake of "fairness." (See the concluding statement of the Appeals Court's opinion in *Seymour* v. *Parke, Davis, Inc.*)

Therefore, I respectfully recall that Federal Statutes Title 28 U.S.C.A. Sec. 1391 and Massachusetts General Laws Chapter 223, Sec. 38 require that legal papers can be served upon any such foreign corporation in Massachusetts which has as much as one agent in the State on permanent or temporary basis with or without a usual place of business.

Now, the Defendant Texas Instruments, Inc. (Delaware Corporation) openly told to the U. S. Court of Appeals that it permanently employs NINE salesmen and SIX secretaries who acquire orders all year round in the so-called "small" sales headquarters located in Waltham, Massachusetts. (These orders exceed ONE HUNDRED MILLION DOLLARS for the yearly business volume.) Yet, U. S. Chief Judge Aldrich decided to set aside provisions in Chapter 223, Sec. 38 of the Mass. Gen. Laws

and *for the sake of "fairness"* summarily dismissed my case against the Defendant Texas Instruments, Inc. as if NINE permanent salesmen and SIX secretaries employed year round in Massachusetts would not constitute enough "doing of business" to permit "personal jurisdiction" over the Corporation which operates this sales organization. There is no need to elaborate here on what it means to set aside a law for the sake of "fairness." We know about setting aside of judgments and suspension of sentences. But, I suspect that setting aside the law is a "novel" and dangerous aspect of the judiciary process.

Insofar as the Attleboro, Massachusetts operations of the Defendant, Texas Instruments, Inc., and service of legal papers upon the Defendant is concerned we have discovered probably the largest Corporate fraud in the history of the United States of America. From the year 1966 to the year 1970 the one and only Texas Instruments, Inc., legally registered to do business in the State of Massachusetts was the Massachusetts corporation at 225 Franklin Street in Boston, Mass., with total assets of THREE DOLLARS. (See page 15, Petition for Writ of Certiorari) During the same time period (1966-1970) the Texas Instruments, Inc. Delaware corporation was employing over 5,000 persons in its 3/4 million square feet of manufacturing facility at Attleboro, Mass. (See Appendix A — aerial photograph reproduced from the Texas Instruments, Inc. Delaware corporation Report for 1966-1967. Also copies of newspaper advertisements offering employment in Attleboro, Mass. (Page 18, Petition for Writ of Certiorari). The official corporate releases which show the pictures of the leading corporate officers presiding over $65,000.00 proceeds collected from donation by the employees of Texas Instruments, Inc. Delaware corp. in Attleboro, Mass. (Page 17, Petition for Writ of Certiorari)

One can understand of course that an attorney for a defendant will do his best to help his client. Still, it is shameful that an attorney now leads the U. S. Supreme Court into believing that during the years between 1966-1970 the legal registration of the Texas Instruments (Massachusetts Corporation) having total assets of three dollars in Boston, Mass. can account for the activities of the Texas Instruments, Inc. (Delaware Corporation) having 3/4 million square feet of manufacturing facilities and several thousand employees in Attleboro, Mass.

Finally on page 6 of his brief the attorney for the defendant is objecting to the pieces of evidence and to the statement of my case which I present before this Court. But, nowhere in his brief does the defense attorney deny that his client subjected me and persons connected with me to harassment and Blacklisting with the help of the State Police*. In all sincerity could the defendant's attorney advise the Supreme Court of the United States that for several years his client the Texas Instruments, Inc. (Delaware Corporation) engaged in concerted actions with State Police in order to prevent me from obtaining work for a living?

Conclusion

It is my sincere hope that regardless of any argument on service of legal papers the Supreme Court of the United States shall decide that my complaint alleging damages which are caused by the defendant's concerted actions with the State Police must receive proper trial as long as the Fourteenth Amendment of the present U. S. Constitution has the force and effect of law.

Respectfully submitted,

ADAM FARKAS
Pro Se

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* See the sworn testimony of Dallas Police Lt. Elmo Cunningham.

Appendix A

Page 33 of Texas Instruments, Inc., (Delaware Corporation) Official Corporate report for the year 1966–1967.

Metallurgical products, control components and energy conversion systems are made in the 750,000-sq ft Attleboro, Mass., plant.

SUPREME COURT, U.S.
Supreme Court, U.S.
FILED
1971
E. ROBERT SEAVER, CLERK

In the Supreme Court of the United States

OCTOBER TERM, 1970

No. 1170

ADAM FARKAS,
PETITIONER,

v.

TEXAS INSTRUMENTS, INC.,
RESPONDENT.

ON WRIT OF CERTIORARI TO THE UNITED STATES COURT OF APPEALS FOR THE FIRST CIRCUIT

PETITION FOR RECONSIDERATION OF DECISION OF COURT DELIVERED ON MARCH 22, 1971

ADAM FARKAS
Pro Se
83 State Street
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ON WRIT OF CERTIORARI TO THE UNITED STATES COURT OF APPEALS FOR THE FIRST CIRCUIT

PETITION FOR RECONSIDERATION OF DECISION OF COURT DELIVERED ON MARCH 22, 1971

The denial of my Petition submitted to this Court is a sad decision not only for me — the petitioner here — but also for the judiciary system of the United States.

My Petition to this Court is clear and so is the statement of my Complaint which alleges that 'the defendant Texas Instruments, Inc., blacklisted me in concerted actions with the State Officers of the Dallas, Texas Police Department. And the defendant acted in concert with Texas State Officers in the enforcement of a Police surveillance

and harassment program in order to prevent me from working for a living in this country'.

I did not present any argument in my Petition to this Court. As it requires no argument to show that blacklistings and harassments which are enforced with the assistance of the State Police are violations of the Constitution of the United States.*

Therefore, I understand that this Court's denial in my case is a sad one. This Court has denied my personal privilege to live in this country free of Police harassments which are designed to prevent me from obtaining work to support my family.

As far as the American Judiciary system is concerned, the decision to deny my Petition in this Court is a devastating one. My Petition brings to light irregular proceedings in the U.S. Court of Appeals for the First Circuit. Among these, I documented the fact that recently the U.S. Court of Appeals for the First Circuit ignored or set aside the State and Federal laws for the sake of so called "fairness". (See the concluding statement of the opinion in the case of *Seymour* v. *Parke, Davis & Co.*, 423 F.2d 584. I understand that only a small fraction of such "fairness" goes into the actual judgment. For most of such "fairness" goes into an activity which should not be condoned in any judiciary system.

To name only one of the aforesaid irregularities, I recall here that the U.S. Court of Appeals decision in my case is based on its previous opinion rendered in the case of *Seymour* v. *Parke, Davis & Co.* In *Seymour* v. *Parke, Davis & Co.*, *supra*, the Court of Appeals stated, "When, however, defendant's only activities consist of advertising and employing salesmen to solicit orders, we think that fairness

* There is no doubt in my mind that it should take less than 60 seconds for any knowledgeable person to conclude that blacklistings and harassments enforced with the help of the State Police do in fact violate the 14th Amendment of the United States Constitution.

will not permit a state [In this instant case Massachusetts] to assume jurisdiction.''; nor, it seems, will it permit service of process in Massachusetts on a corporation which does business with 6 secretaries and 9 salesmen permanently located in Massachusetts.

Against all of this ''fairness'' the provisions of sec. 1391(c) of Title 28 of the U.S. Code and Chapter 223, sec. 38 of the Massachusetts General Laws *explicitly require venue for jurisdiction and service of process* in Massachusetts on a Corporation which does business with as little as one agent located in Massachusetts. And, the Defendant, Texas Instruments, Inc. openly told the Court of Appeals that it permanently employs 6 secretaries and 9 salesmen in Waltham, Massachusetts. See Affidav't, Appendix A.

Therefore, it seems logical that the United States Supreme Court would want to know about the real reason for the kind of ''fairness'' which can induce a Chief Judge of the U.S. Court of Appeals to set aside (or ignore) the explicit provisions of laws enacted by State and Federal legislatures.*

A brief inquiry into this matter would reveal that the aforesaid judicial ''fairness'' in the court of Appeals for the First Circuit seems to favor wealthy corporations which are named as defendants in these legal proceedings. In Conclusion, the petitioner respectfully requests that this Court reconsider its decision in light of the foregoing.

Respectfully submitted,

ADAM FARKAS
Pro Se

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* I am just a naturalized American from the "Old Country", who joined the American way of life. So, I understand that justice and judiciary decisions, in America, are achieved by means of rational methods. Here a Chief Judge of the U.S. Court of Appeals decided *not to* apply the law "for the sake of fairness." What sort of rationale is that?

APPENDIX A

It will be seen by the following that Texas Instruments, Incorporated (the Defendant) seems to be doing very well in Massachusetts for a corporation which said under oath, it would not do business in Massachusetts under the name of Texas Instruments Incorporated.

AFFIDAVIT

STATE OF TEXAS)
) ss:
COUNTY OF DALLAS)

I, Bryan F. Smith, being first duly sworn, depose and say as follows:

1. I am a Senior Vice President and Secretary of the defendant Texas Instruments Incorporated and am familiar with its various business activities in the United States. I am the same Bryan F. Smith whose affidavits dated August 21, 1967 and December 23, 1968 are on file with the papers of this case.

2. The statements set forth in my two prior affidavits are correct, except that there are now in the Waltham Sales Office nine rather than six solicitors, six rather than four secretaries and the office maintains a petty cash checking account of up to $300.00.

3. I have read the plantiff's amended complaint, referred to in the Court's Order of June 9, 1969, and am generally familiar with the claims which the plaintiff, Adam Farkas, has made against Texas Instruments Incorporated in recent years. The claims alleged in the plaintiff's amended complaint relate to business which was done by Texas Instruments Incorporated and events which took place only in the State of Texas.

Bryan F. Smith, Senior Vice President
and Secretary
Texas Instruments Incorporated

Dallas, Texas

Subscribed and sworn to before me this 9th day of September, 1969.

Clara C. O'Brien
Notary Public
My Commission expires June 1, 1971

EXHIBIT 'H' page 1.

Filed in open Court 9/16/69 - RJ

John F. X. Davoren
Secretary of the Commonwealth

The Commonwealth of Massachusetts

Office of the Secretary

State House, Boston 02133

July 7, 1970

I, JOHN F. X. DAVOREN, Secretary of the Commonwealth, hereby certify that

TEXAS INSTRUMENTS INCORPORATED

a corporation organized under the laws of the State of Delaware on December 23, 1938, complied with the provisions of General Laws, Chapter 181, relative to doing business in the Commonwealth of Massachusetts, and on March 26, 1959, filed the papers required by law:

and I further certify that said corporation was so qualified to do business in this Commonwealth from that date until January 11, 1961, on which date a legally authorized person filed on behalf of TEXAS INSTRUMENTS INCORPORATED an affidavit of withdrawal of its right to do business under the name of TEXAS INSTRUMENTS INCORPORATED in Massachusetts.

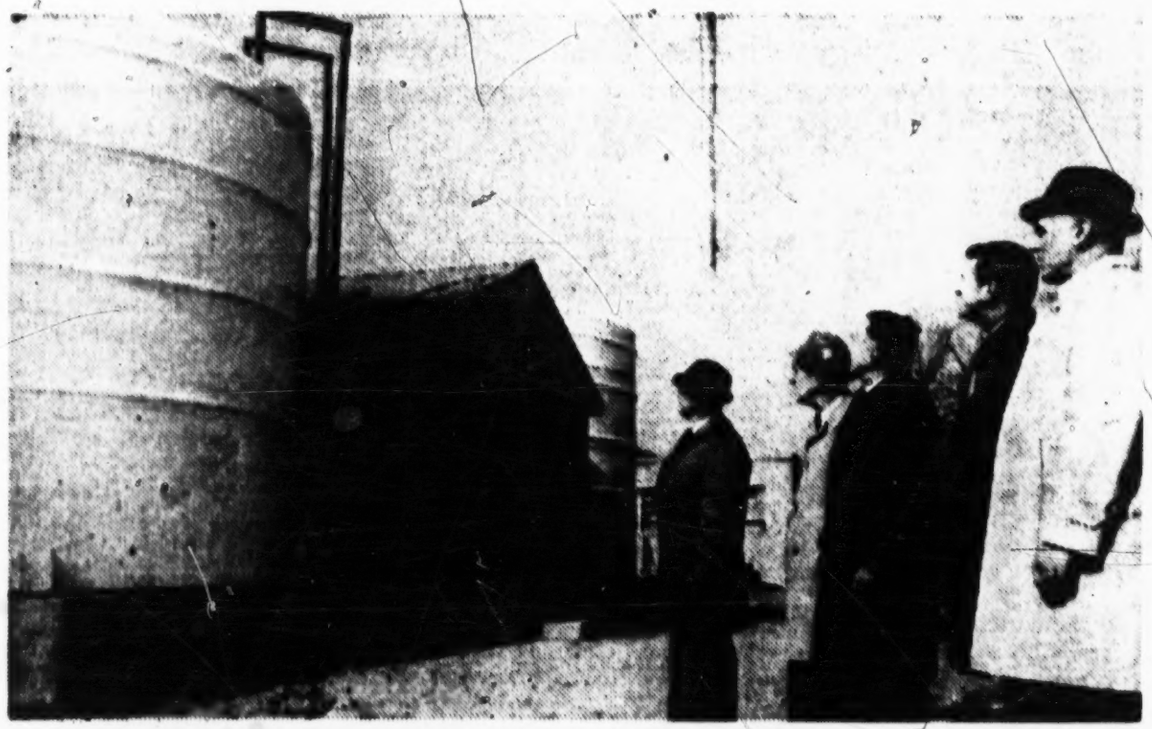
IN TESTIMONY of which, I have hereunto affixed the Great Seal of the Commonwealth on the date first above written.

John F. X. Davoren

Secretary of the Commonwealth.

Deputy Secretary.

C.D. 504. SH-3-69-94902S



Inspecting TI's new effluent treatment plant are (l-r) Henry Brousseau, Attleboro health agent; Michael Anthony, TI manager of division services; John F. Wilson, TI regional vice president; Mayor Thomas A. Piggott; Joseph Keith, public works superintendent.

TI treats industrial waste

Texas Instruments Inc.'s two divisions at Attleboro put a new industrial waste treatment system on the line Friday.

Spent acid and spent cyanide from the TI complex were being discharged into drains and found their way into Thacher Brook, then the Ten Mile River and eventually into the East Providence water system.

All factories whose waste goes into the Ten Mile River Basin have been put on implementation schedules by the Division of Water Pollution Control in the Massachusetts Department of Natural Resources, according to a spokesman in the state agency. He said the office was "very pleased" with the progress in Attleboro.

Construction of the TI facility began last spring. Planning goes back to 1965, when the company retained the Hamden, Conn., office of Laney Laboratories Inc. to develop the system.

Approximate cost of construction was $250,000. It is expected to cost $30,000 a year to operate.

There are three separate treatment operations, two for cyanide and one the largest

OPPORTUNITY

To invest in outstanding parcel of Real Estate

Eighty Plus Acres choicest land suitable for residential, apartment or condominium develop-

Port of Providence

GENERAL CARGO

EXPORT-IMPORT SHIPPING SCHEDULES

INBOUND

Vessel	Arrival	Origin		
M.V. Finnboard	April 20	enroute		
M.S. Son Rome	April 18	enroute		
		Copenhagen April 16	Helsingborg	April 17
M.S. Elsworderssand	April 30	Vasteras May 1	Fredericia	May 4
		Copenhagen May 4	Helsingborg	May 5
M.S. Burhaversand	May 17	Vasteras April 28	Aarhus	May 1
		Hamina April 29	Helsinki	April 30
M.V. Finnmaid	May 30	Copenhagen May 2	Norrkoping	May 4
		Vasteras May 18	Helsingborg	May 19
M.S. Son Rome	June 6	Copenhagen May 30	Aarhus	May 31

OUTBOUND

Vessel	Loading	Destination
M.V. Finnboard	April 20	Rotterdam-Hamburg
M.S. Son Rome	Providence April 18	Vasteras-Copenhagen-Helsingborg
M.S. Elsworderssand	April 30	Vasteras-Copenhagen-Helsingborg
M.S. Burhaversand	May 17	Vasteras-Copenhagen-Helsingborg
M.V. Finnmaid	May 30	Rotterdam-Copenhagen-Hamburg-Helsinki
M.S. Son Rome	June 6	Vasteras-Copenhagen-Helsingborg

For further details: Thomas C. O'Rourke.
Port of Providence, 781-0234, 781-5767.

PUBLICLY OWNED COMPANY

WISHES TO ACQUIRE FOR

CASH OR STOCK

PROFITABLE JEWELRY MANUFACTURING BUSINESS

METALS & CONTROLS INC.
A CORPORATE DIVISION OF
TEXAS INSTRUMENTS
INCORPORATED

September 16, 1969

Mr. Adam Farkas
Raytheon
P.O. 360
Portsmith, Rhode Island 0287.

Dear Mr. Farkas:

For your information, we are enclosing a copy of our latest data bulletin on our new high-speed edgeboard connector EC-022-MI-9000. For information on mounting of connector and mating board details, please see reverse side of data bulletin.

As indicated by this data bulletin, this connector was designed for high frequency or high switching speed applications, and is currently available in production quantities. The following is the price and delivery schedule in various quantities.

1 - 9	$14.30
10 - 24	10.80
25 - 99	8.30
100 - 499	6.80
500 - 999	5.80
1K - 2K	4.99
2.5K - 4999	4.40
5K - 9999	4.00
10K +	3.80

Quantities up to 100 1 to 4 weeks delivery. Quantities over 100 4 to 8 weeks delivery.

If I can be of further assistance to you, please do not hesitate to contact me. Your interest in Texas Instruments products is greatly appreciated.

Very truly yours,

Ray Larsen
Product Manager

pc
enclosure: data bulletin , photograph
cc: Field Sales Engineer, Pete Robinson, 24 Taylor Lane, Portsmith, New Hampshire

P.S. Pricing on coax cable adaptor place available on special request.

28

Texas Instruments Terms Clad Metals . . .

Metalworking's $1 Billion Infant

TI's Phillip J. Gomez

"And $1 billion covers only clad metal materials systems currently available or on our drawing boards. We know the surface has only been scratched."

REACH INTO YOUR pocket and dig out one of those "sandwich" dimes or quarters currently being minted. You're holding an example of a technology which has grown from specialty applications in jewelry and thermostat metals to a volume business with potential exceeding $1 billion annually: clad metals.

That evaluation comes from Texas Instruments Inc.'s Materials Div., Attleboro, Mass., a front runner among the handful of firms pioneering in this area.

"And $1 billion covers only clad metal materials systems currently available or on our drawing boards," claims Philip J. Gomez, TI vice president and Materials Div. general manager. "The total dollar potential of this market is almost impossible to pin down because we are constantly discovering new applications."

• Benefits—Mr. Gomez cites two distinct benefits of clad metals as basis for this rapid growth: improved product performance by combining optimum engineering properties; cost reduction either by conserving costly material (see table) or by simplifying manufacturing operations. TI calls this the application of the "materials system concept."

TI is pursuing application in the transportation, appliance, construction, communication, electric, electronic, military, and government markets. The table accompanying this article gives some idea of the basic combina-